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FREE TRADE IN LAND

BY

JOSEPH KAY

NINTH EDITION

LONDON
KEGAN PAUL, TRENCH, & CO., 1 PATERNOSTER SQUARE
1885

FREE TRADE IN LAND.

BY

JOSEPH KAY, Esq., M.A., Q.C.,

OF TRIN. COLL., CAMBRIDGE;

AUTHOR OF "THE LAW RELATING TO SHIPMASTERS AND SEAMEN."

EDITED BY HIS WIDOW.

WITH PREFACE BY

THE RIGHT HON. JOHN BRIGHT, M.P.

AND A

REVIEW OF RECENT CHANGES IN THE LAND LAWS OF ENGLAND

BY THE RIGHT HON. G. OSBORNE MORGAN, Q.C., M.P.

Ninth Edition.

LONDON:

KEGAN PAUL, TRENCH, & CO., 1 PATERNOSTER SQUARE.

1885.

PREFACE.

I HAVE been asked to write a few words of introduction to this Volume. I do it willingly, although I cannot think that any special introduction is required.

The subject discussed in it is so important, and the manner in which it is treated is so good, that I hope and believe the Volume will recommend itself to that increasing portion of the public which takes an interest in one of the greatest and most pressing questions of the day.

It is a matter of deep regret that the Author of the Letters of which the book is mainly composed, did not live to complete his work. He was competent, perhaps above any other writer on the subject of our Land Laws, to treat his favourite question with admirable clearness of exposition, and with a knowledge and experience derived from much travel abroad, from careful investigation at home, and from accurate legal study of the difficulties by which it is surrounded

As the reader acquaints himself with the contents of the Volume, he will perceive how moderate and how just are the views which are advocated in it. There is nothing to alarm intelligent owners of land; there is no support given to any of the wild propositions which some speculative writers have put forth, and which ignorant and illogical men have adopted or favoured.

The Author is always just; he seeks to give that freedom to the soil which our laws have given to its produce, and which they give to personal property of every kind; he would leave to their free action the natural forces which tend to the accumulation of landed property on the one hand, as well as those which tend to its dispersion on the other; he would so change our laws as to give to every present generation an absolute control over the soil, free from the paralysing influences which afflict it now from the ignorance, the folly, the obstinacy or the pride of the generations which have passed away.

He shows, by abundant evidence, how great is the gain to the humbler classes of society, to the labourers, and peasants, and small farmers of the countries in which the reforms he advocates have been effected, and he pleads urgently on behalf of the suffering and helpless population of our country, bound to the land by a tie which is more that of

serfdom than one of ownership and of independent enjoyment and possession.

I venture to recommend this Volume to owners of estates, to tenant farmers, to the labourers on their farms, and to the crowded populations of our large villages and towns.

There is no class of our people which has not a great and direct interest in the reforms it explains and advocates. It may prove a legacy of much good from one who is now withdrawn from amongst us, if it hasten the time when, in addition to the many gains of freedom of which we justly boast, we may boast also of the freedom of our soil.

JOHN BRIGHT.

March 26, 1879.

PREFACE BY THE EDITOR.

—o—

MR. KAY intended to publish the contents of the following Letters as soon as he had completed the series. He wished to re-arrange them in Chapters, and divest them of the repetitions incidental to their original form, that of a series of Letters published in the "Manchester Examiner and Times."

My husband, however, died while engaged in the composition of No. XV., the concluding portion of which would have contained an account of the Land Laws of Germany. There would have been one more Letter only, in which he would have summed up the results he had arrived at, and which he had already indicated in the earlier Letters.

Since it is beyond my power to carry out precisely what my husband intended, I have decided to publish the Letters as they were written, with only such slight alterations as the writer himself indicated while the work was in hand.

These alterations occur in Letters II. and VII., which have been slightly recast in accordance with wishes he had expressed to me.

In a few cases paragraphs have been inserted as they were written by my husband after the publication of the Letters, and with a view to their final arrangement.

MARY E. KAY.

18 HYDE PARK GARDENS,
March 29, 1879.

NOTE TO THE EIGHTH EDITION.

THE Appendix to this work is omitted in the present edition, in order to publish it at a price within the means of all.

The Appendix confirmed by statistics and somewhat fuller details the statements made in the Letters.

The work is still to be had in its original form.

M. E. K.

May 1, 1885.

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MEMOIR.

—o—

[*The following kindly record published in the "Manchester Examiner and Times" of the 11th October 1878, seems to form a fitting introduction to this series of Letters.*—ED.]

WITH deep regret we have to announce this morning the death of Mr. Joseph Kay, a man whose many and various associations with this district have made his name familiar to thousands of our readers, and whose private virtues endeared him to a multitude of devoted friends. Mr. Kay had long been a sufferer—he never entirely recovered, indeed, from the serious illness which prevented his appearance at the last Salford election, but his death, up to within a few hours before it happened, was quite unexpected—and, as a political thinker and writer, he may be said to have died in harness. His death occurred on Wednesday, at Fredley, near Dorking, Surrey, his home during the last few years, the name of which, too, will be henceforth sadly familiar to the readers of this journal.

By many ties the late Mr. Kay was connected with Manchester, or, rather, with the neighbouring borough, which he always called his native town. There he was born, and received his earliest education; there he filled an important judicial office, and there on two occasions his name was inscribed on the banner of political liberty during momentous political crises. From his boyhood he

had been an earnest and zealous political student, and, as the brother and pupil of Sir James Kay-Shuttleworth, his thoughts were early directed towards social and ethical reforms. Thus, though he was no longer a young man when he first consented to become a candidate for parliamentary honours, he brought to the contest an ardent and enthusiastic nature, singularly well informed on the most important political questions, and able to discuss them with no less insight than eloquence. But the secret of Mr. Kay's influence was chiefly due to the sterling honesty of his character; the charm of his manner, the closeness of his reasoning, and the vigour and force of his oratory, never failed to carry away a popular audience; but they were all the more effective because they were expressive of the thoughts and feelings of one of the kindest and honestest men of his time. And while his loss will be lamented by thousands who only knew him as a public man, by those who had watched his career as a lawyer and judge, who had read his luminous and forcible essays on such subjects as Education, Land Tenure Reform, &c., and who had listened to his stirring orations as a political champion, we do not hesitate to say that only those who had the privilege to call him friend were able to gauge the depth of tenderness in his nature, the sweetness and gentleness of his disposition, and the measure of his excellence in the most sacred duties of life.

Mr. Joseph Kay was born at Ordsal Cottage, Ordsal Lane, Salford, in the year 1821; he was the son of the late Mr. Robert Kay, the representative of an old Lancashire trading family. As we said above, he went first to a school in Salford, where some of the best-known of our citizens of to-day were his schoolfellows. Afterwards he was educated with the sons of Sir Thomas Fowell Buxton, and at this time the echo and excitement of the anti-slavery agitation reached the ears of the sons of the great philanthropist, and their friend's first aspirations as a politician were in favour of freedom to the slave. At

Cambridge Mr. Kay had a successful career, and after taking his degree, his appointment as "travelling bachelor" in 1844 gave him the opportunity of investigating the legal codes of foreign countries, and of testing by the experience of direct observation the comparative advantages of divergent systems. To the studies of this time are due the most important literary labours of his after life. Startled, as he has said, at what he saw of the results abroad of "free trade in land," he made close inquiries into the working of the Land Laws, as well as the educational systems of Germany and Switzerland.

In one of his recent letters he thus refers to his first experience of the duties of his office: "I left England on my appointed duties, furnished with introductions from our Government and from the German Ambassador, Chevalier Bunsen, to all the Governments and other authorities and heads of institutions who could aid me in my proposed inquiries. I went first to Switzerland, partly because in that country were to be found some of the greatest leaders of the educational movement which had been for many years spreading through Western Europe, and partly because I knew that some of the cantons were, even at that time, making the greatest efforts to perfect the schools for the children of all classes of their people. I visited first the rich agricultural cantons of Neuchâtel, Berne, Vaud, Argovie, Zurich, Geneva, and Thurgovie. As I travelled through these prosperous districts, from school to school, I was more and more struck by the prosperous appearance of the farms, by the high farming, the substantial comfort, size, and excellence of the farm buildings, the number, beauty, and fine condition of the cattle, the extraordinary richness of the pastures, and the evident care that I observed on every hand not to waste anything, either land in wasteful fences or in undrained plots, or any portions of the manures from the farms and homesteads, or anything that could by any means conduce to increase the produce of the farms. I was astonished

also to see how much care and expense were bestowed on the embellishment of the exterior of the houses, as if the inmates were really interested in them. I noticed, also, that although the everyday working dresses of the men and women were of very coarse, substantial, and often home-made materials, I seldom, if ever, saw rags even on the working days, while on the Sundays men and women always appeared in comfortable, substantial, unpatched clothes, and often, if not generally, in their national costume, or at least with some part of their picturesque cantonal ornaments. But what surprised me as much as, if not more than, anything, was that as I drove along the public roads for miles, even near the towns, the roads were bordered by rows of magnificent fruit trees of various kinds. These trees had no protection against theft. There were no hedges or palings. They were all open to any passenger along the roads. I have seen hundreds of miles of such roadside orchards in Switzerland, Germany, and Italy, and have constantly looked with astonishment at the wonderful respect for property which all this evinced. After some time spent in examining the primary schools throughout Switzerland, I went to the Lake of Constance, to visit and inspect the celebrated Training College for Teachers, which was then presided over by the celebrated Vehrli, at that time one of the most distinguished promoters of the education of the working classes in Europe." Vehrli took him to see a large agricultural school in the neighbourhood, which was maintained in order to enable the sons of small farmers to improve to the utmost their modes of farming and the capabilities of their land. Everything he saw was a source of wonder to him, and he began to study not only the education question, but the not less grave one of "free trade in land." When he saw the agricultural labourers struggling for themselves, working for no landlord, sharing their winnings with no master, he was more and more impressed with the moral and social effects of the release of the land from feudal laws. And

then he began to ask himself—Would a like release have like results in England? "I returned to England," he said, "and began the earnest study of our Land Laws. I then returned to the Continent, and travelled through the principal countries of Germany. Throughout these countries I found that the feudal laws had been done away, and that the educated yeomen farmers and peasants were cultivating their own lands. Everywhere I found the good effects of these great reforms manifested in the moral wellbeing of the yeomen farmers and peasants, in the healthy self-help they manifested, in their hopeful looks, in the good and substantial appearance of their villages and houses, in the economical and careful management of their fields."

In 1846 Mr. Kay published "Education of the Poor in England and Europe," and in 1850 "The Social Condition and Education of the People in England and Europe." It is scarcely necessary to remind our readers that for many years Mr. Kay has been a regular contributor to our own columns, and the ink is scarcely dry on his last written communication. With what ability he has discussed the Education and Land Law Reform they do not require to be told; few modern writers, indeed, have brought to bear on these subjects so much thought and such exact knowledge, and his wise lessons have been rendered all the more valuable by remarkable illustrative power, and by the advantage of a graceful and vigorous style. A few years ago he published a treatise on "The Law relating to Shipmasters and Seamen," which established his position as an authority on the maritime and mercantile law of the country. In these and his other literary works Mr. Kay has left a rich legacy of political wisdom, of the value of which we have happily not been entirely ignorant during his lifetime.

As an education reformer Mr. Kay was no mere theorist; he was deeply interested in the first attempt at anything like a system of national elementary education in this country initiated by his brother, Sir James Kay-

Shuttleworth. When the first English Training College for Teachers was established by Sir James Kay-Shuttleworth, and Mr. Tufnell at Battersea, Mr. Kay for about a year had great opportunities of observing and assisting in its management.

Mr. Kay was called to the Bar by the Honourable Society of the Inner Temple on the 5th of May 1848, and joined the Northern Circuit. In 1862 he was appointed Judge of the Salford Hundred Court of Record, and this appointment brought him into closer contact with the borough, though he had never ceased to keep up intimate social relations with many of his early friends here. He was made a Queen's Counsel in 1869. In the same year the Manchester Court of Record was amalgamated with the Salford Hundred Court, and Mr. H. W. West, Q.C., and Mr. Kay were appointed joint judges of the new court. Though Mr. Kay has not sat as judge for some time, he held that office at the time of his death.[1]

Of Mr. Kay as the Liberal candidate for Salford it is quite needless to say more than a few words. His ability and attainments were recognised by his opponents, and his telling speeches will not soon be forgotten—speeches in which sound and sterling views were expressed in choice and eloquent language, and with the skill of a practised and scholarly orator. How deep was the regard and how sustained the trust Mr. Kay won from the Liberal party in Salford in 1874 (when he and Mr. Henry Lee were opposed to Mr. Cawley and Mr. Charley) was emphatically manifested when Mr. Cawley's lamented death in 1877 caused another contest. Mr. Kay had only spoken a few times in the borough since the previous election, and he was then suffering from the effects of his exertions at a meeting in the Town Hall in the previous February. Yet though it was known that his presence was impossible—notwith-

[1] Shortly after being made a Queen's Counsel, Mr. Kay was elected a Bencher of the Inner Temple, and in 1872 was appointed Solicitor-General of the County Palatine of Durham.

standing the disadvantage of a fight in the absence of the standard-bearer—the influence of his very name was considered so great that his candidature was accepted with enthusiastic acclamation. It was said at the time of his first contest that "he was a Liberal in the best sense of the word, neither an obstructive nor a destructive;" and he certainly never advocated change for the sake of change; but always maintained that without constant modifications according to the changing wants of the age, no institutions could be kept "in good repair." He married Mary Elizabeth, eldest daughter of the late Captain Thomas Drummond, who was for some years Under-Secretary of State for Ireland, and without any violations of that reserve which should be held specially sacred at this moment, it may be said that never was a union more completely happy. His long and painful illness was borne with serene steadfast composure, and his almost heroic cheerfulness was sustained by the tenderest and most devoted love; and the kindness and consideration for others which throughout his life won for him the love and regard of all who knew him intimately were not wanting in his last hours.

At such a time the rancour of political strife is forgotten, and in the case of a man in whom party differences rarely, if ever, interfered with private friendship, it is all the more easy to realise how much in his departure we have lost as a community. There have been many men whose opportunities for active political life have been more extensive, and Mr. Kay will perhaps be remembered rather as a philosophical thinker and writer than as an ardent partisan. Only his most intimate friends could fairly estimate his great capabilities, his generosity, and disinterestedness. At a period like the present, indeed, it is difficult to avoid repining for the loss of a man apparently so well fitted to play a conspicuous part in political life; but how few men leave us whose careers have been rendered so useful to

their fellow-creatures. No fulsome record of imaginary virtues, no catalogue of imaginary services, will be inscribed on the tomb of Joseph Kay, but those to whom he was nearest and dearest may be assured that his memory will be kept green in the hearts of the best men and women of his native town as a genial and accomplished gentleman, a faithful friend, and an honest man.

INTRODUCTION TO THE LETTERS.

—o—

December 15, 1877.

In these letters I wish to explain, as simply, clearly, and shortly as I can, the facts of a great subject, which will henceforward until its settlement more and more draw to itself the attention of the public—I mean the subject of the Land Laws.

It is surrounded by so many technicalities, and by so many statutes and decisions of the courts—the law is so difficult even for lawyers to understand; such a vast literature of rubbish has grown up around it; so many thousands of cases have been argued and reported upon its meaning; and lawyers are so unwilling to put their own hands to the work of reform—that it is not wonderful that the most singular mistakes should be made by many public speakers in dealing with this question, and that the real reforms which are needed, should still be wrapped in so much obscurity.

And yet I believe that this subject is capable of a simple and intelligible statement, and that the facts in which the unprofessional public are interested are few and easy of comprehension.

I am, however, almost astonished at myself for venturing on the above statement, when I reflect that I have known the deed of settlement of one estate to require many months for its preparation; to cover nearly a barrow-load of paper when written out preparatory to being engrossed on parchment; and to cost over £400 for the conveyancer's charges

alone, without reckoning either the solicitor's charges or the cost of the necessary stamps.

And yet, with all this cumbrous, costly, and scarcely intelligible verbosity, the title of such an estate is scarcely ever free from some doubt or question.

I propose to try to explain :—

1. The actual condition of things which the present Land Laws have produced.

2. What the actual existing laws are, under which this condition has been produced.

3. The different state of things which exists in foreign countries.

4. What remedies we ought to seek.

LETTER I.

THE ACTUAL CONDITION OF THINGS WHICH THE PRESENT LAND LAWS HAVE PRODUCED.

December 15, 1877.

To ascertain this we must consult some extraordinary and interesting returns, which have been recently prepared —I mean, of course, the so-called "Doomsday Books."

These returns were moved for in the House of Lords, on the 19th February 1872, by the present Earl of Derby—himself one of the largest of the English landowners—who in moving for the returns showed clearly what his motive for wishing for them was, by stating his belief that the number of landowners in the United Kingdom was nearer 300,000 than 30,000, as had been constantly stated; that it was a popular fallacy to suppose that small estates were gradually being absorbed in the larger ones; but that "it was true that the class of peasant proprietors formerly to be found in the rural districts was tending to disappear."

It was therefore with the expectation, if not with the object, of making out these propositions, that the return was demanded of and granted by the assembly of the greatest landowners of the United Kingdom.

So far as giving us an approximate idea of the size and number of the great estates, these returns are as interesting as they are astounding; and astounding they most certainly are, for they disclose a state of things existing in Great Britain and Ireland which has no parallel in any other civilised country in the world. But even in professing to

state the size and number of the great estates, they do not tell us the whole of the story, for they do not include in the alleged sizes of these estates the acreage of any woods or plantations, or of any waste or common lands, all the vast extent of which property is not added to the estates of their owners. "Doomsday Books," therefore, only give the sizes of the estates after deducting the immense area covered with woods, plantations, waste, and common lands.

So far as showing the number of the owners of small agricultural estates, or as they used to be called "yeomen proprietors' estates," the "Doomsday Books" are utterly worthless, if not utterly misleading, for not only do they mix up in the number of "*owners* of one acre and upwards" all the large number of small building plots purchased by members of the middle and shop-keeping classes, on which to erect houses or villas, but they also mix up in the same number and reckon as *owners* of land all holders of land on leases for terms *exceeding* 99 *years*. That is, in order to swell the number of small *owners*, they have reckoned *leaseholders* as *owners!* It is difficult to conceive a more misleading statement. I will try to explain why I say so. First of all, it should be remembered that, at the end of these terms of more than 99 years, the lands held by these leaseholders return to the great landowners, together with all that has been expended upon them, and together with all the improvement in value which has resulted from this expenditure. A leaseholder has never the same feeling towards, nor the same full interest in the land he so holds, that he would have if he knew that it was his own property. But more than this, the land held for these terms of more than 99 years is almost always subject to various kinds of covenants and conditions—such as to expend upon it a certain sum of money for buildings or other kinds of improvement; or to expend at certain periodical times on restorations; or to insure; or to cultivate in a particular kind of way; or not to use the lands for certain named and specified purposes; or not to shoot the

game; or to allow the landlord to enter to inspect, or to shoot the game, or for other purposes; or not to cut any timber, or not to remove fences, or to keep up erections on the land; or to observe some other agreed duties. Many of these leases contain agreements that the landowners shall have the power to enter and take possession, if any of these covenants is broken.

Besides all this, it must be remembered, as I know from the best possible authority, that neither the "Rate Books," nor any other parochial documents either could, from their entries, or did enable the Local Government Board to ascertain what lands were held for *even* 99 *years.*

But, in those cases where lands were merely *reputed* to be held on lease, the overseers and rate collectors were instructed to obtain the best available information as to the term on which they were held, and to omit or insert the lessees accordingly. And when it is remembered how naturally unwilling, for many substantial reasons, both the landowner and the lessee generally are to make public the terms of the holding, or the nature of their mutual arrangements, it may be faintly conceived how utterly worthless this part of the returns of the "Doomsday Books" really is.

Such a holding as this is less like real ownership than a horse hired by any one is like a horse which belongs to him; for, at any rate, when any one hires a horse he is not bound down by covenants as a leaseholder is. I say, therefore, that it was ridiculous and misleading in the extreme to include these leaseholds for more than 99 years among the freeholds, or, in other words, among the small estates belonging out and out to the occupiers themselves. If we could possibly ascertain the number of yeomen proprietors actually owning out and out small farms, we should find that number a very small, and, as Lord Derby admits, a constantly decreasing one. Even the House of Lords did not venture to propose that these 99 years' leaseholds should be reckoned as freeholds. The nearest approach to such a proposition was made by the Marquis of Salisbury,

who "urged that the 999 years' leaseholds ought to be included in the returns." But when we come to consider the number and size of the great estates, we find the returns of extraordinary interest. Although the full size of these great estates is not shown, on account of the omission of woods, waste lands, and commons, the returns are indeed so startling, that one is lost in astonishment that Lord Derby should have deemed it for the interest of his brother landowners to disclose the truth.

I shall only attempt to state some of the more remarkable results, merely observing that each one is worthy of serious reflection, and that its full significance can only be grasped by trying to form some approximate idea of the meaning of these figures.

The total area of England and Wales is, after deducting the quantity within the metropolitan area, 37,243,859 acres.

How is this vast extent divided among the inhabitants?

66 persons own 1,917,076 acres.

100 persons own 3,917,641.

Less than 280 persons own 5,425,764, or nearly one-sixth of the enclosed land of England and Wales.

523 persons own one-fifth of England and Wales.

710 persons own more than one-fourth of England and Wales.

874 persons own 9,267,031 acres.

Just think how small a number 874 persons are in a church or town hall, and then try to realise what the figures 9,267,031 signify.

And it is to be remembered that in none of these calculations are the extents of woods, commons, and waste lands included.

But to continue, in the county of Northumberland, which contains 1,220,000 acres, 26 persons own one-half the county.

One Englishman owns more than 186,397 acres, another more than 132,996 acres, and another more than 102,785 acres.

A body of men, which does not probably exceed 4500, own more than 17,498,200 acres, or more than one-half of all England and Wales.

In Scotland the returns are still more startling. The total acreage of Scotland is 18,946,694 acres. One owner alone has 1,326,000 acres in Scotland, and also 32,095 in England, or a total of 1,358,548 acres.

A second owner has 431,000 acres, a third owner has 424,000, a fourth owner has 373,000, a fifth owner has 306,000. Twelve owners have 4,339,722 acres, or nearly one-quarter of the whole of Scotland; or, in other words, a tract of country larger than the whole of Wales, and equal in size to eight English counties, viz., Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Cheshire, Cornwall, Cumberland, and Derbyshire.

20 owners have each more than 120,000 acres.

24 owners have 4,931,884, or more than one-quarter of Scotland.

70 owners have about 9,400,000 acres, or about one-half of Scotland.

171 owners have 11,029,228 acres.

While nine-tenths of the whole of Scotland, that is, of the whole of 18,946,694 acres, belong to fewer than 1700 persons.

The existence of these vast properties in Scotland has led to the depopulating of great tracts of country in order to create large deer forests. There is no return of their acreage, but the Hon. Lyulph Stanley calculates that much more than 2,000,000 acres have been cleared of hundreds of thousands of sheep, and depopulated, in order to make room for deer; or in other words, the homes and farms and food of thousands of families have been destroyed in order to feed the deer and encourage sport, and this in a country which is alleged to be so crowded as to make it absurd to suppose that any alteration in the Land Laws would enable the middle or labouring classes to acquire land.

But let us turn to Ireland. Here, also, the framers of the returns have reckoned leaseholds for more than 99 years as freeholds. And here, also, it is impossible to ascertain from the returns the number of yeomen proprietors who exist in the island. No doubt the number, spite of the sales of lands under the Encumbered Estates Act, the Land Act, the Bright clauses, and the Disestablishment Act is very small. But whatever the number, the returns do not enable us to ascertain it, for the reasons already given.

Now certainly one would have said *a priori*, that if there was any country in the world in which it was desirable to have a large and widely-distributed body of yeomen proprietors, that country was Ireland. Such proprietors, wherever they exist, are always found to be conservative in the best sense of the word, deeply interested in public peace and order, self-denying and saving, prosperous, and anxious to promote the good education of their children. In all countries where the Land Laws have allowed or promoted the existence of such proprietors, these results have invariably followed. Similar laws would be followed, as I believe, by similar results in Ireland. But not only are there very few such proprietors in Ireland, but the system of great estates adds, in Ireland, to its other evils one which is not experienced to any great extent in England or Scotland, namely, the evil of absenteeism. A large proportion of the great landowners of Ireland reside in distant countries, carry away the revenues of their Irish lands into those countries, and instead of spending those revenues among their Irish tenants and neighbours, in the promotion of Irish industries and in the improvement of their Irish tenants, spend them among other people, while their Irish tenants are left, without the support or countenance of their landlords, to the tener mercies of agents, who are often strangers to Ireland.

But let us see what light these returns throw upon the division of land in Ireland.

The total area of Ireland is 20,159,678 acres. Of this—

452 persons own each more than 5000 acres.

135 persons own each more than 10,000 acres.

90 persons own each more than 20,000 acres.

14 persons own each more than 50,000 acres.

3 persons own each more than 100,000 acres.

1 person owns 170,119 acres.

292 persons hold 6,458,100 acres, or about one-third of the island.

744 persons hold 9,612,728 acres, or about one-half of the island.

Taking the acreage of the 12 largest owners in each of the three kingdoms, we have the following result :—

In England, the 12 largest owners hold in the aggregate 1,058,883 acres ; and their respective acreages are 186,397—132,996—102,785—91,024—87,515—78,542—70,022—68,066—66,105—61,018—57,802—and 56,600.

In Scotland, the 12 largest owners hold in the aggregate 4,339,722 acres ; and their respective acreages are 1,358,548—431,000—424,000—373,000—306,000—302,283—253,221—220,663—194,640—175,114—166,151—and 165,648.

In Ireland, the 12 largest owners hold in the aggregate 1,297,888 acres ; and their respective acreages are 170,119—156,974—121,353—118,607—114,881—101,030—95,008—94,551—93,629—86,321—72,915—and 69,501.

In the United Kingdom, the 12 largest owners hold in the aggregate no less than 4,440,467 acres, as the able summary published in the "Times" states.

Two-thirds of the whole of England and Wales are held by only 10,207 persons.

Two-thirds of the whole of Scotland are held by only 330 persons.

Two-thirds of the whole of Ireland are held by 1942 persons.

Of the remaining one-third, a great part will, at the termination of the leaseholds for the present remainders

of the original term for 99 years and upwards, revert to these great owners, with all the improvements made upon them by the expenditure of the leaseholders.

Mr. Froude, the enthusiastic advocate for the present system of Land Laws, says frankly, "The House of Lords does own more than *a third* of the whole area of Great Britain. *Two-thirds* of it really belong to great peers and commoners, whose estates are continually devouring the small estates adjoining them."

This statement, by the landowners' one-sided and eager partisan, that the great estates, vast as they already are, are "continually devouring" the few remaining small agricultural properties, is borne out by the admission of one great landowner, Lord Derby, that "the class of peasant proprietors formerly to be found in the rural districts was tending to disappear." These statements are only too sadly true. There is no doubt that England once possessed a large class of independent, well-to-do, self-supporting yeomen proprietors. Old writers treat it as one of the boasts of Old England that she had so many small freehold yeomen. Where are they now?

By our system of Land Laws we have been cutting away the base of our social pyramid, while nearly all other civilised countries have been pursuing an exactly opposite policy.

Since the French Revolution of 1789, the greater part of the land throughout the republics of Switzerland and France, the empires of Germany and Austria, and the kingdoms of Holland, Belgium, and Italy, has been released from its feudal fetters, and has in every such case begun immediately to break up into smaller estates. In all those countries the consequence has been, what it would be in Great Britain and Ireland, the division of the land into estates of all sizes, and the creation of a class of conservative, industrious, prosperous, and independent yeomen proprietors.

Lord Derby shows us by his returns what the condition

of the large estates is in Great Britain and Ireland, although he avoids showing what the effect of all this has been upon our small farmers and upon our agricultural labourers.

It would be a most interesting subject of inquiry, had we only the means of following it out, to ascertain how each of the great estates came to be formed. How many were created by the industry and personal efforts of some ancestor; how many were the grants of sovereigns to their favourites; how many were gradually amassed by successive marriages of convenience; how many were obtained by ambitious statesmen, in the troublous times of our rough island story, by the attainder and death of rivals; how many were either created or immensely increased by grants of the vast possessions of the religious houses and of the Roman Church; how many were the results of our fierce and bloody civil wars and struggles. It would indeed be a curious and instructive study. But they exist, and no one wishes to interfere with the just rights of property. The only question we all desire to have answered is, Is it for the common weal that the laws which affect land, and which, as I and many others affirm, have the same effect here that similar laws used to have on the Continent of Europe—viz., to keep the land tied up in great estates, and to prevent it from coming into the market as much as it otherwise would do—should be retained upon the statute book of Great Britain and Ireland?

Before leaving this division of our subject, let us for a moment consider what effect these laws have on the class of the peasantry in Great Britain. In the countries in which these laws have been repealed, the peasants and small leasehold farmers know that if they exercise sufficient self-denial and thrift, and if they are successful in laying by their savings, they may look forward to the time when they may purchase a cottage, a garden, or a small farm of their own. This knowledge is an immense incentive to exertion, self-denial, and economy. Throughout the greater part of Europe, and in the most thickly-populated provinces of

those countries, in provinces where land sells for agricultural purposes at prices equal, and even higher, than in England, tens of thousands, nay millions, of the peasants and small farmers have worked their way upwards to the position of independent yeomen proprietors.

How strangely different is the case in Great Britain. How many peasants can call their cottages or their gardens their own freeholds? How many have the slightest security of tenure, even of the smallest cottage, except the will of their landlords? Nay, more, how many small farmers, no matter what their industry, their thrift, or their self-denial, can ever hope to win the smallest freehold of their own?

One of the most interesting bodies of men in our island used to be the small "statesmen," or freehold farmers of Cumberland and Westmoreland, a set of independent yeomanry of which any country might have been proud. Within the last 50 years they have been disappearing before the "devouring" maw of the great owners, who buy regardless of rent or profit, and often merely for the purpose of swelling their already vast possessions.

But, it is said, this will always be the case—the great estates will always devour the small; a small farmer or a peasant will never be able to compete with a rich owner in the auction room; the small freeholder will never sell unless it is better for him to do so; no laws will stop this tendency of things in Great Britain. I believe this to be the greatest possible fallacy. It is contradicted by the experience of all other countries. The existence and small number of these vast estates create an unnatural and unwise competition among them, each to emulate his neighbour to increase his possessions. Each great owner knows that political influence, social influence, position among other great neighbours, depend to a great degree in this country on the extent of landed possessions. When, therefore, a small freehold adjoining one of these vast estates comes into the market owing to death, or embarrassment, or other cause, it constantly happens that the agent of the

great landowner comes into the auction room and buys up the small freehold, wholly regardless of the question whether the sum paid can ever return any reasonable amount of interest or not. So the poorer bidder, inasmuch as he must consider what return he could hope to make on his outlay, finds himself nowhere in the struggle. I could mention the names of great proprietors who have for long years acted on this principle, simply with the view of enlarging their estates.

"In some counties," as Mr. Shaw Lefevre states, "all the land which comes into the market is bought up by the trustees of wills directing the accumulation of land; while in most parts of the country, if a small freehold of a few acres comes into the market, it is almost certain to be bought up by an adjoining owner, either for the purpose of rounding off a corner of his estate, or for extending political influence, or still more often by the advice of the family solicitor, who is always in favour of increasing the family estates. On most large estates there will be found the remains of several manor houses, either converted into farmhouses or labourers' cottages, showing that in former times the number of resident squires must have been far more numerous."

If our laws did not keep the great estates out of the market, when many circumstances would otherwise often bring them into it; if the laws did not assist the landowners to preserve their estates from the natural consequences of spendthrift and speculative successors, of bad or ignorant management, and of immoral, gambling, or improvident children; if the laws did not keep the great estates together, spite of all changes of circumstances which occur to make it expedient in an owner to sell; if the laws of primogeniture, wills, and settlements were altered; and if the dead man's arrangements were not allowed to bind the land long after his death, many of these estates would come into the market, and would, in order to fetch the best prices, divide and sell in smaller plots, just as they have done to

some extent in Ireland under the Encumbered Estates and Land Acts, spite of primogeniture and settlements; and just as they have always done in foreign countries to an immense extent, where primogeniture and settlements have either been done away with or greatly modified.

Besides, the very knowledge that a great proprietor could not tie up his estate, and secure it from sale for many future years, would of itself diminish this exaggerated longing to acquire land for the purpose of founding a family and acquiring social and political influence. Even the richer and greater owners would consider whether the price asked would be a good investment or not.

But if all this is not true, if no alteration of these laws would prevent the accumulation in a few hands, and the long continuance of the same estate in the same family, then of what possible use can these Land Laws be?

By these Land Laws, as it seems to me, we not only injure our small farmer and peasant classes, and reduce them below the level of such classes in the countries where these laws have been repealed, but we also at the same time deprive the country of the immensely valuable element of a contented, prosperous, intelligent, and conservative rural population.

LETTER II.

ON SOME FALLACIES AND MISCONCEPTIONS.

December 27, 1877.

BEFORE I attempt to explain what the actual existing Land Laws are, under which the condition of things which I described in my first letter has been produced, it is necessary to get rid of some fallacies which have laid hold of the public mind upon this subject. And, indeed, it is not surprising that strange misconceptions should exist, considering how we lawyers have surrounded and overlaid the subject with technical terms, with innumerable finely-drawn distinctions, with many thousands of decisions of the courts, and with statutes heaped on statutes, many of which are expressed in the scarcely intelligible jargon of the middle-age legal language.

It is not, therefore, matter for surprise that many able laymen, when discussing this subject upon the public platforms, should use language which makes lawyers smile, and which is only too sadly calculated to mislead their hearers, or, at least, to divert their attention from the real points to which it ought to be specially directed.

First and foremost, it is absolutely necessary to get rid of the idea that the vast accumulation of land, which I described in the former letter, has been caused by "primogeniture." Nothing can be more incorrect. "Primogeniture" only means that when an owner of land dies without having made a deed or a will settling and disposing of his land, the land in such case shall all go to his legal "heir,"

without any other relations taking anything. No doubt this is very objectionable, and no doubt it tends to some extent, where no deed or will exists, to keep the great estates together, but only to a small extent. For first, very few landowners are so foolish as not to make a deed or will; and secondly, even where such a case occurs, the legal "heir" takes the land without any restriction or limit to his full power to sell or give it away, just as he pleases, and without anything to prevent his creditors, if he is in debt, seizing and selling it. I think the law of "Primogeniture," as it is called, ought to be done away with, but it is not this law which is mainly to blame, but the laws which enable the owners to tie up the land for so many years by deeds and wills, as I will presently explain. Another fallacy, which is sometimes anxiously insisted on, is that the law allows landowners to tie up their land and keep it out of the market "in perpetuity," as it is said; or in other words, for all future time. This is simply a delusion. The law, bad as it is in my opinion, is not so bad as this. No person is allowed by the law to tie up his land, so that it cannot be sold, for a longer period than the life-times of any number of persons actually in existence at the time when the deed or will was made, and until the unborn child of some one of those persons attains the age of twenty-one. But a landowner is allowed to let his land for very long terms of years, which may in some cases have the effect of preventing any one person having the entire control over it, or being the perfect owner of it, or being able to sell it, for much more than one hundred years. Another fallacy is to lay all the blame upon the "entail" laws, as they are popularly called. It is quite true that many entailed estates are really, by the deed or will which created the "entail," prevented from coming into the market, or, to speak more correctly, put under such regulations that no owner can sell for a great many years; but an estate which is "entailed" is not always necessarily in such a position. An owner of an estate which is entailed may be, and often

is, in such a position that he can, if he will, sell or give the land to any one he chooses, though such a case is an exceptional one; inasmuch as, before such a state of circumstances occurs as to give him this power, another deed is generally made which takes away from the owner all powers of selling for many, many years again.

"Free Land" is another expression sometimes used even by earnest and accomplished reformers, which is open to great objection. Sir Henry James, Q.C., M.P., one of our ablest lawyers, said at Taunton that he did not in the least understand what was meant by the term. And if an able lawyer like Sir Henry is puzzled by the term, what must be its effect on minds ignorant of all laws, and especially of this really difficult subject of the Land Laws. It is surely well that earnest men, who desire to promote reform on this subject, should avoid making use of terms which are capable of the most obnoxious and injurious interpretations, and which are certain to strengthen the doubts and opposition of enemies, and even of hesitating friends. "Free land" may mean land freed from all law whatever; or that land should belong to those who are strong enough to seize and hold; or that all land should belong to the State, who should divide, or let, or lend it as it wills; or that it should be freed from all claims and titles at present affecting it; or, as the agricultural labourers' journals are now seriously, but alas! how ignorantly or wickedly, arguing, that every peasant should have a plot of land granted to him out of the great estates; or, in fact, many other equally obnoxious significations.

What I am most anxious to urge upon all land-law reformers is this—we have enough opposition without increasing it by using vague and alarming terms, which only serve to create opponents, without even teaching or enlightening friends. Land-law reformers are already sufficiently misunderstood, and the difficulties of the subject are already sufficiently great, without our increasing them by language which is only calculated to alarm, without being capable of

instructing. At any rate I cannot say too often or too strongly, that I am not to be numbered among those who desire "free land," in any sense which can be reasonably attached to the term. I wonder, as was suggested to me a few days ago by a thoughtful and intelligent friend, where the free-trade question would be even now if its advocates had gone about discussing vaguely "free corn."

To pass on to another of these strange expressions. It is a totally unfounded fallacy to say, as Sir Stafford Northcote did in his speech at Bournemouth on December 4th, 1877, that any of the intelligent leaders of public opinion among the Liberal party want "a free system of the distribution of land." I do not know what Sir Stafford exactly meant by these words, or indeed if they meant anything at all; but, if they did, it is sufficient to say that no intelligent Liberal wishes for any system "of the distribution of the land." All that they desire is that the law should not interfere to prevent the sale and breaking up of the great estates, when change of circumstances, or poverty, or misfortune, or bad management, or immorality, would otherwise bring them into the market.

Neither is it true, in any sense, that really thoughtful men wish to compel the subdivision of estates.[1] They only desire that the law should not oppose such subdivision if circumstances would otherwise render it certain to happen. Neither do they desire, as is constantly alleged, that all the land should be divided into little estates. That is not the case in France, or in any other civilised country in the world. Even in France, whose Land Laws we do not wish

[1] I have been asked why I am opposed to the proposal to limit the amount of land which a man might hold, and also why a landowner should not be forced to sell all his estate, except a limited portion, on receiving proper notices from purchasers intending to buy? I answer, that if gentlemen who make these suggestions really think they are practicable, or reasonable, or desirable, nothing I could say or do would convince them to the contrary. They propose schemes which I have neither the time nor the inclination to fight. Life is too short for some sorts of controversies.

to copy, the land is—spite of the law, which seeks to compel subdivision—divided into great estates, medium-sized estates, small estates, and gardens, owned by their possessors. But the vast difference between France and Great Britain is, that if a great landowner in France mismanages his estate, or gets ruinously into debt, or does not care to keep it, or feels that he could employ his capital to some better purpose in some other way, he is never prevented by deed or by will from selling, nor is his land ever protected by law from being sold.

An extraordinary doctrine is that which is advocated by Mr. Francis W. Newman, in "Fraser's Magazine" for December 1877, viz., "to limit by law the magnitude of estates;" and he suggests, "for discussion, a thousand acres as the ideal maximum for rural land, and two acres for town land." Now, I hope it is not necessary to say that all the thoughtful leaders of the Liberal party, and, as I believe, nearly all their followers, would oppose any such proposition as much as the Conservatives. If such a scheme were possible, it would be highly inexpedient, for many obvious reasons. And even if it were expedient, it is utterly impossible. Such schemes frighten many of even the Liberal party from any calm consideration of the reform of the Land Laws. Indeed, when one sees such a proposition appearing in "Fraser," where only a few months since Mr. Froude's partisan and vehement article against all change in the Land Laws appeared, one is tempted to exclaim that surely "an enemy hath done this." These are but a sample of the strange statements that one hears from day to day in public and in private whenever the subject of the Land Laws is discussed. I have heard educated, liberal men asserting in good faith that they cannot believe that it would be wise to divide all the land of Great Britain and Ireland among peasant proprietors, as if such a thing were possible, or ever contemplated, or as if such a thing had ever been accomplished or attempted in any civilised country.

Another fallacy is one put forward by Mr. Froude, who says: "People complain of the law of entail (meaning thereby the Land Laws) as if it interfered with the subdivision of landed property. It rather sustains such small estates as remain. Abolish entail if you please, but accumulation will only proceed the more rapidly."

But if this is true, if the accumulation of the great estates will go on not only as rapidly as it does now, but "more rapidly" still, "devouring the small estates adjoining," what earthly reason can there be for retaining these laws? It seems strange to retain obnoxious laws, which invite cavil and opposition, when the very objects for which they were framed might be attained still more effectually without them. It is useless to tell Mr. Froude, or men who, like him, will not even regard what can be said on the other side, that England is alone now in her support of these laws—that all other civilised countries have either greatly modified them, or have entirely got rid of them, or are getting rid of them; and that, in every country in which these laws have been abolished, the great estates, instead of going on increasing in size, as Mr. Froude prophesies, have divided into smaller estates of all sizes.

"But," says Mr. Froude, "unless the area of Great Britain could be made larger than it is, or until the British people change their nature, a peasant proprietary is a dream."

But he forgets, or pushes out of sight, the fact that the getting rid of similar laws in Belgium, Italy, Switzerland, and the richest and more populous provinces of Germany and France, caused the rapid creation of estates of all sizes, and of classes of yeomen and peasant proprietors.

He says further, "France is now divided into between five and six million freeholds. At the death of a proprietor his land is shared among his children, and the partition is only arrested at the point at which the family of the cultivator can be fed."

But does he not know, or does he again push out of

sight the obnoxious fact, that throughout France there are many large estates, each producing thousands of pounds a year, and estates of all sizes, as well as the small estates, of which he writes so incorrectly?

But he tells us that we are in our maturity, or past it, and that we cannot afford to act as other countries do—that we are to hold fast to our institutions. This is the old, old cry which has been always raised when any great reform has been advocated, and which is always raised to defend abuses when all else has failed. And then he tells us that if we do not respect our past, *i.e.*, our old institutions, we shall have no future to respect.

The same powerful and well-worn argument was applied in opposition to the Reform Bill, the Municipal Corporations Bill, the Free Trade measure, the Repeal of the Navigation Laws, and all the other vast measures of reform which have been passed during the last 45 years, and which have served to strengthen the foundations of our English Constitution, spite of all the storms which during the same period have raged around it.

But putting aside these strange fallacies, many of which have been insisted upon in order to raise a prejudice against those who wish to reform the Land Laws, it cannot be too earnestly insisted on, that no matter how these great estates were originally formed, the main causes which at the present day keep them together, and prevent many of them coming into the market, are the laws which allow the owners to make deeds and wills which for many years, and often long after the owners' deaths, prevent the land from being sold, or the estate from being divided, no matter how expedient it may be that it should be sold, or no matter how foolish or extravagant the owner may be. Let me give an instance of what I mean. I was the trustee of a large and valuable estate in the South of England. This estate, 50 or 60 years ago, came into the possession of a young titled man, who was just 21 years old, and whom I will call Lord A——. He became the absolute owner of it, unfettered by

any deed, or will, or mortgage. The whole income of the estate belonged to him. He married when he was about 22 years of age. Upon his marriage, deeds were executed which gave him only a life interest in the estate, and then settled the property on his children most strictly. That was 50 or 60 years ago. He had one child, and as soon as that child was 21 another deed was made giving that child only a life interest in the estate, and settling it after his death on the children he might leave in succession. The estate was divided into large farms and very valuable woods. Lord A—— was an extravagant and reckless man. He hunted the country. He kept open house. He lived as if his income were ten times as great as it was. He gambled and lost heavily. He raised money on his life interest. He finally fled from England deeply in debt and lived abroad. The remainder of his life interest, which was only worth the annual thinning of the woods, was sold to a Jew, who knew he would lose all as soon as Lord A—— died. That state of things lasted about 40 years. The farmers had no leases and no security for any expenditure. They were unwilling to expend on the restoration or substantial maintenance of the farm buildings. The Jew would not spend, for he did not know, and could not know, when Lord A—— might die. The gentleman who took the mansion would not expend upon it, because he could not tell when he might be turned out.

The Jew, in order to make as much out of the estate as he could, raised the rents as much as he could, and cut out of the beautiful park and woods far more timber than any unembarrassed owner would have done, and so the estate was damaged more and more year by year; the tenantry were prevented from dealing fairly by the land or fairly to themselves; there was no one to support the schools or the church, or to look after the large village of labourers upon the property. All social progress and all social prosperity upon the estate were put an end to. The farm buildings fell into decay; the land was not properly drained or

cultivated; the plantations were injured; the mansion became dilapidated; and all this was caused by the deeds which the law had allowed the lord and his heir to execute.

If it had not been for these deeds, the estate would have been sold, either in one or in many lots, at least 40 years ago, and would have gone unfettered and unburdened into the hands of men who would have expended capital upon it and developed all its resources.

In my next letter I shall try to show what powers the law confers upon the landowners, and how the exercise of these powers prevents the sale or division of the large estates.

LETTER III.

THE EXISTING LAND LAWS.

January 3, 1878.

I SHALL now proceed to try to explain what the Land Laws are, under which the condition of things described in my letter No. I has been produced.

The laws of which we are going to treat emanated from and are the offspring, so to speak, of the feudal system established in this country by the Conqueror and his successors in the eleventh and twelfth centuries. Since those days a continued struggle has gone on—the people, assisted by the lawyers, seeking to modify them, or to find out means of evading them; the great nobles and sovereigns, who were interested in them, seeking to maintain or re-establish their stringency.

Sometimes one party gained ground in the struggle and sometimes another; but as time went on, the growing necessities of the nation and the increasing power of the middle classes effected many modifications. Then broke out the great French Revolution of 1789. It found the feudal system existing in much greater stringency abroad than in Great Britain and Ireland, and causing infinitely more misery among the middle and lower classes in foreign countries than our modified laws were doing in Great Britain and Ireland. It swept away the feudal laws, first in France, Belgium, and Holland, and then in Germany and the northern part of Italy, but it did not affect the modified feudal Land Laws which still existed in Great Britain and Ireland.

The great estates broke up on one side of the British Channel, but, thanks to the modifications which had been submitted to upon the other side, they not only continued to exist, but they also continued greatly to increase in size, and greatly to diminish in numbers.

It is no part of the object of these letters to trace out these gradual and very limited modifications. All I propose to show is, what those laws are, which at the present time oppose free trade in land, and prevent many of the great estates coming into the market, when, if it were not for these laws, they would undoubtedly do so. To state this in the shortest possible manner, they are :—

1. The laws which allow a landowner, by his deed, or by his will, to prevent his land being sold, or seized, or lessened in size, either during his own life, or for many years after his death.

2. The law which, if the landowner does not avail himself of his power to make such a deed or will, gives all his land, without diminution or charge, and in one undivided estate, to the landowner's next "heir." This is the law of "Primogeniture."

3. The laws which allow the landowner, without selling any portion of his estate, to let portions for long terms of years, from 99 to 999 years, and to subject them to all kinds of covenants, which affect these portions for generations after the death of the landowner, and after a change of all the circumstances under which the leases were made.

1. I will attempt to explain the first allegation.

Let me suppose that Lord D—— has an estate in the North of England of 50,000 acres. This is a moderate supposition, when we remember the sizes of some of the English and Scotch estates. And yet how difficult it is to realise the meaning of these figures. A public park of 100 acres is considered a large and noble pleasure-ground for even such a city as Manchester. But it would require 500 such parks to make an estate of 50,000 acres, and it would require 27 estates of 50,000 acres each, or 12,500 such

public parks of 100 acres each, to form an estate equal to that which is now, in these days, owned by the greatest Scotch landowner.

Let us suppose Lord D—— to be 22 years of age and unmarried, and to be the legal owner of these 50,000 acres, without being fettered by deed, or will, or mortgage. In such case he would be able to give, or sell, or divide his estate just as he pleased.

Let us suppose he marries at 22 years of age. In such case the law enables him upon his marriage to make a deed giving his land to trustees, with directions to pay a certain sum per annum to his wife during her life, and the rest of the rental of the estate to himself during his life, and after his death to pay the rental to persons specified, to whom I will refer further afterwards.

If after this deed has been made Lord D—— turns out utterly reckless and extravagant, gambles, or goes on to the turf and falls hopelessly into debt, as Lord A—— did in the case mentioned in letter No. 2, his land cannot be sold, however expedient it may be that it should pass into the possession and management of better men. The income of the estate would go to pay the creditors. There would be no one during Lord D——'s life to perform the duties of a landlord; no one to give leases to the farmers, which would enable them to safely lay out money in improvements; there would be no landlord who could keep up the farm buildings or mansion, and the estate would fall into ruin, just in the same way as Lord A——'s actually did. Many an estate has been left for many years in such a position, owing to such a deed. In Lord A——'s case, the estate continued in that state for about 50 years. But, further, besides allowing Lord D—— upon his marriage to tie up his land by the deed for his own lifetime, the law allows him to do much more.

Suppose that A., B., and C. are his children, or nephews, or friends, and that C. is an infant, 1 year old, when Lord D—— dies. The law enables Lord D——, by deed or will, to direct that as soon as he (Lord D——) is dead, A. shall

have the estate for A.'s lifetime; that after A.'s death, B. shall have it for his lifetime; and that after B.'s death, C., the infant, shall have it for his lifetime; and that after C.'s death, the first son of C. who attains 21 years of age shall take the estate entailed upon him and his children.

Under such a deed A., B., and C. have, if they live and succeed to the estate one after another, only limited interests in the property. Each would only take, at the most, a right to possess and enjoy the estate for the remainder of his own lifetime. Beyond that, neither would have any interest in or power over the estate. Under such a deed or will, it is impossible to sell the estate out and out, until some son of C. has attained 21 years of age. This may not happen for 50, 60, or 80 years after the death of Lord D——, and even then the estate cannot be sold out and out, unless C. and his son agree to do so. Thus it often happens that such a deed or will has the effect of preventing any one selling the estate, or any part of it, for 80 or 100 years. During all this time Lord D——'s estate is kept together, and is prevented from being sold, by a dead man's deed or will.

But more than this, Lord D—— is allowed by law, by such a deed or will, to lay down all kinds of regulations for the management of the land, for paying annuities out of it to relations and dependents, for the management of the woods and mines, and for the investment in other land of the proceeds and rental of the estate. And however much circumstances may change during all this period of time after his death, Lord D——'s deed or will still ties up the estate, still regulates its management, still keeps it unsold and undivided. Well may it be said that "the dead man's hand" keeps its grip upon the estate for generations. Very often, too, an owner like Lord D—— directs by his deed or will that A., B., and C. shall only have a right to receive the rents, or part of the rents, of the estate, and that the land shall belong to trustees, who shall devote the other part of the rents to buying more land, or to planting more timber, or to carrying out specified improvements, or to rebuilding the mansion, or to some

other purpose. Close to where I am writing, a large estate has been given to trustees in this way. They are ordered by the will to let the mansion for a certain number of years, not to allow the heir to come into possession until he has attained a certain age, and even after that time to exercise considerable power over the property. In this case, it is possible that no one may be able to sell the land for 50 or 100 years. But let us suppose that C., the infant, has attained the age of 65 years, and that he has a son who is 20 years of age; under such a state of things Lord D——'s estate would be still bound by his deed or will, and could not be sold, even by C. and his son together, while his son was under age. What generally then happens is this,—The father, C., says to his son, "Now, I will make you an immediate allowance of so many hundreds or thousands a year for your life, if you will join me when you are 21 years of age in making another deed like Lord D——'s, and tying up the estate again as he did." C.'s son, fearing that if he does not assent he will only get a very small annual allowance from his father C., and being tempted by the prospect of a handsome immediate income, and perhaps himself understanding how important it is to prevent the estate from dividing, generally assents, and then, as soon as C.'s son is of age, another deed is made by father and son, tying up the property again, making it impossible to sell any portion of it, and providing for its future management for another 60, 70, or 100 years.

By such a process as is here shortly and popularly described, the majority of the great estates of Great Britain and Ireland are kept out of the market, and tied up by deed or will, from one long period of time to another, and for successive generations, the new fetter upon the power of sale being generally added just before the time when the land would become saleable or liable to be seized in satisfaction of debts.

Mr. Cliffe Leslie says very truly of these arrangements between father and son: "It is commonly supposed that

the son acts with his eyes open, and with a special eye to the contingencies of the future and of family life. But what are the real facts of the case? Before the future owner of the land has come into possession; before he has any experience of his property, or what is best to do, or what he can do in regard to it; before the exigencies of the future or his own real position are known to him; before the character, number, and wants of his children are learned, or the claims of parental affection or duty can make themselves felt, and while still very much at the mercy of a predecessor desirous of posthumous greatness and power, he enters into an irrevocable disposition, by which he parts with the rights of a proprietor over his future property for ever, and settles its devolution, burdened with charges, upon an unborn heir."[1]

It is quite right to say "burdened with charges," because when the father and son make these deeds together, it is usual to provide in the deed for a settlement of money out of the rents on the son's future wife, and for other settlements upon any younger sons and upon any daughters the son may have.

I hardly need say, what must be so well known, that estates are often so burdened with charges for wives and children and relations and retainers, that many a landowner, the extent of whose land makes his acquaintance believe him to be very rich and able to keep up a great style and a great hospitality, is in reality a poor man, who cannot find money for the proper maintenance of his estate or performance of his duties.

As these deeds and wills are purposely made to bind the estate for many, many years after the death of the landowner who makes them, it becomes necessary to insert great numbers of directions to the trustees or to the successive lifeowners, as to what they may do under contingencies which may possibly occur in the long series of years. These directions are called "Powers." Thus

[1] Land Systems of Ireland, England, and the Continent, p. 199.

"Powers" are inserted to enable the trustees or the successive lifeowners to grant building leases, or mining leases; to cut timber under certain circumstances; to carry out specified improvements; to increase the estate by the purchase of more land; to raise money for future wives; to charge the estate for possible future children; to raise marriage portions for daughters; to raise money to buy commissions, or for the education or advancement of children; to mortgage for many purposes; to raise money for charitable purposes, &c., &c., &c. The condition of the titles of many of these estates becomes in this way complicated in the most extraordinary way, until even the ablest lawyer finds it difficult, and often quite impossible, to ascertain the exact state of the legal ownership of such an estate.

Vast numbers of these estates are, owing to these deeds and wills, burdened with charges for wives and widows, charges for sons and daughters, marriage portions, mortgages, covenants to other owners, building leases, mining leases, farming leases (each containing scores of provisions), rent charges to various persons, payments of insurance policies, payments of annuities, equitable mortgages, equitable claims, &c., &c.

I need not say that in vast numbers of these cases the actual possessor of one of these estates has not the faintest idea of what his own legal position is. He is told by his family lawyer and by his agent that, under the circumstances, he has only so many thousands a year to receive. Beyond that, the state of his title is an insoluble mystery.

But I am far from having given any complete idea of the powers which our law confers upon the landowner.

It not only permits him to leave the surface of his land to one set of persons, so tied up that it cannot be sold, but it allows him to leave the minerals under the surface to another set of persons, and the timber on the estate to a third. So he may give the legal ownership and management of the land to one set of persons, without any right to use for

themselves any portion of the rents, and he may give the rents to another set. So, he may give the legal ownership of the estate to one set of persons, and give them a right to pay the rents to any person or persons they may select. So, he may direct that the land shall go to one set of persons after his death, and that, if some indicated event happens, it shall go away to another set of persons. So, if he finds that his son has got into the hands of the money-lenders, he may, if the land is not already settled by one of these deeds or wills, settle the land upon that son's child, so as to enable the child of the unworthy son to come into the ownership freed from every embarrassment. All these and hundreds of other strange powers are given to the owner of land by our law, although such privileges and powers would not be endured by the law of any other civilised country.

2. The evils which are caused by these deeds and wills are still further aggravated by the law of "primogeniture." By this law, if a landowner dies without having made one of these deeds or wills, and free from debt, the law, seeking under all circumstances to prevent the great estate from being lessened or divided, instead of giving each of the children a fair and reasonable portion of his dead father's or relation's property, gives it undivided, uncharged, and undiminished, to the person whom the law defines under the circumstances of the family to be the "heir" of the deceased. If such "heir" happens, according to the law, to be several females, then the estate goes undivided to those females. In the case of the owner of money dying without making a will, the law acts equitably and without being influenced by the desire to promote the creation of great estates, and divides the money in defined shares among the nearest relations, whether they be male or female. But in the case of land all such considerations are set aside and made subservient to the one paramount idea of supporting and keeping together the great estates.

3. As if to make confusion worse confounded, the law

permits the landowner to bind his land, in various cases, by leases for terms of years extending over periods varying from 21 to 999 years.

All this has come about in this way. When one of the deeds or wills which I have tried to describe, has been made, no person who becomes owner of the estate has any interest in the land beyond the term of his own life. Therefore, unless he were specially empowered in some way or other, he could not let any portion of his land beyond the term of his own life, and as the term of his life might terminate any day or hour, he could not grant a lease upon or under which any one could act or expend money with any security whatever. It became necessary, therefore, either to insert powers of leasing for long terms in these deeds or wills, or to give the courts powers to authorise such leases for special purposes, such as farming, building, mining, repairing, &c. An Act of Parliament was accordingly passed, giving the Court of Chancery authority to allow owners under these deeds or wills to make these leases for these long terms. This really increases the powers of the landowners to tie up their land, and to keep the ultimate ownership in their own families, while they get capitalists to develop their estates and work the mines, quarries, &c., upon them, to do which the landowner himself has generally neither the capital, nor the energy, nor the intelligence, nor the business qualities which are necessary. But all this is only a palliative for a great evil. The man of capital under one of these leases has not the full control over the land. His hands are more or less tied by the many provisions of the lease, while he is often interfered with in his enterprise in a hundred ways by the provisions of the lease and by the interests and caprices of the landowner. Besides all this, it is unnecessary for me to explain how these long leases, entered into, it may be, more than a hundred years ago, complicate the state of the title to the estate, and increase the difficulties and costs of investigating its title and otherwise dealing with it.

I have now endeavoured, as plainly as I could, to explain how the law enables the landowner, by means of these deeds, wills, and leases, to tie up his estate for long periods of time, often extending by a succession of these deeds over many generations.

Do not let it be supposed, however, that I would deprive a landowner of the power of making a will and of leaving his land to any child, or children, or person that he chose. I would leave him such a power. I believe, however, that it would be better for the land, for his family, and for the country, that the landowner should have no power whatever of rendering his land unsaleable, or of withdrawing it from the market, or of regulating its management in any way after his own death. The interests of an infant to whom he left any land might be satisfactorily guarded during his infancy by giving the necessary powers either to a guardian appointed by the will, or to one of the courts.

Until the powers of the landowner are thus limited, there is no hope of seeing anything approaching "free trade in land," or any reduction in the sizes of the great estates, or any creation of a class of yeomen proprietors.

LETTER IV.

EVIL CONSEQUENCES OF THE EXISTING LAWS.

February 7, 1878.

In my first letter I tried to show the condition of things which the present Land Laws have produced; in No. II. I attempted to dispose of certain common fallacies which beset the question of the Land Laws; and in No. III. I endeavoured to explain the laws which have brought about the condition of things described in No. I.

In this and the following letter I propose to show what are some of the evil consequences of these laws as they now exist.

But before I do so, I must beg to be permitted to notice two or three suggestions and queries which the letters already published have evoked.

One gentleman, an eminent and well-known member of Parliament, inquires if I would suggest the doing away with marriage settlements of land? I answer, that inasmuch as it is by, and in, the marriage settlements that a great part, if not the greatest part, of the land of Great Britain and Ireland is tied up for many years, and so rendered incapable of being sold, or seized, or divided, however expedient it may be to do so; and inasmuch as without doing away with marriage settlements of land you cannot possibly have anything like free trade in land; and inasmuch as such marriage settlements of land have been done away with in all countries where free trade in land has been introduced, I would certainly do away with marriage settlements of

land, as I would with all other deeds or wills which render land incapable of being sold. I am quite certain that no adequate reform can ever possibly be, or that any has ever in any country been, accomplished without doing away with such settlements.

Then I am told that in a crowded rich country like this, it is idle to dream of land ever selling in small estates to any great extent. I answer, let us get rid of the causes which, as I showed in No. I., have put 17,498,200 acres, or more than one-half of England and Wales, into the hands of only 4500 persons, which have given half of the whole county of Northumberland to only 26 persons, which have given 1,358,548 acres to one person, and which have given 4,440,467 acres of land to only twelve persons; and, when we have done this, we shall better see than at present what number of the citizens of the United Kingdom would obtain shares in the land. It is, at any rate, somewhat premature at present, under the existing most extraordinary circumstances, to talk of the large population and of the "limited quantity" of land; at any rate, without being so ridiculous as to expect every citizen to be a landowner, one is not a dreamer in supposing that a vast number of citizens might in this country, as abroad, become landowners if these immense estates were divided.

Then a Bishop of the Church of England has objected to me that personal property can be tied up as long as land, and with as mischievous results. I answer, first, that I do not think it is wise or good that the law should allow personal property to be tied up, for so great a number of years as at present, after the testator's death, and that I would alter that law; but, secondly, I say that many of the evil consequences which result from tying up land by these deeds and wills, and which I am going to try to explain in this and the following letter, either do not result at all, or at any rate, do not result to nearly the same extent from tying up personal property; and thirdly, I say that personal property cannot be tied up in foreign countries to anything

like the same extent to which it can be tied up in Great Britain and Ireland.

Now, let us consider SOME OF THE CONSEQUENCES OF THESE DEEDS AND WILLS WHICH BIND AN ESTATE FOR SO MANY YEARS :—

1. It is unquestionable, as I have already said, that they prevent many estates being sold which would otherwise come into the market. I gave one instance of this in letter No. 2, in the case of Lord A——'s estate, of which I myself was trustee. That estate would undoubtedly have been sold at least 40 years ago, either in one or more lots, if it had not been for the deed which was made upon Lord A——'s marriage. I myself, within my own limited sphere of observation, know several other estates which would undoubtedly have been sold, if it had not been for similar deeds or wills. Indeed, there can be no doubt whatever that there are many estates in all parts of the country which are only kept out of the auction room, by similar deeds and wills. They are overburdened with charges and mortgages. Everybody concerned would be a gainer by a sale. The land would pass from impoverished owners to men who would buy because they had the desire and the means to make good use of what they bought. Besides this, in many, many cases, where the owner was on the turf, or gambled as Lord A—— did, or was a mere spendthrift, or reckless manager, the land would be sold. And the greater the number of estates that thus came to the hammer, the less inflated would the price of land become, and the more necessary, in order to realise the best price, would it become to sell an estate in single farms, rather than in one lot. This is abundantly proved by the course of sales under the Encumbered Estates and Church Acts of Ireland, where, instead of the properties sold going solely to great owners or great capitalists, more than 4000 small farms or plots have been sold to small farmers or small capitalists. If any fair number of great estates in England and Scotland were to come into the market as in Ireland, similar results would

follow, and, as in Ireland, men of business, shopkeepers, small farmers, and small village tradesmen would buy. Similar results have followed similar causes in all foreign countries where the feudal laws have been done away with.

The London "Times" of the 29th December 1877, published a most remarkable piece of evidence of the truth of what I have just written, so remarkable that I am sure your readers will thank me for citing it *in extenso*, especially as Mr. Caird and other eminent men are eagerly asserting just now that, if the great estates came into the market and were divided, no people but rich capitalists would buy. Your readers will bear in mind that this extract is taken from a paper which has always shown itself most hostile to "free trade in land."

"Our Dublin correspondent writes under date December 28th:—

"Mr. Shaw Lefevre, M.P., has pursued his inquiries as to the operation of the clauses of the Church and Land Acts, which enable tenants to buy their holdings, beyond the committee room of the House of Commons to the lands themselves, and has communicated the result of his observation to the 'Journal of the Statistical Society.' In the forthcoming number a paper will appear giving an account of visits paid to two glebes in the neighbourhood of Newry. One of these has been sold to the tenants, and the other is only now about to be offered for sale, some technical difficulties having caused delay. The lands which were sold consisted of 250 statute acres, on which there were 21 small farms, let at an average rent of £1, 4*s.* per acre. All the tenants purchased these farms at about 24 years' purchase of the rental. The district is purely agricultural, and the land is light and undulating. He states the results of his inquiries in nine cases. The first bought 20 acres for £516, the whole of which he paid down. He had been an engineer in the merchant service for some years, then inherited a small farm of 8 acres, and afterwards bought the tenant's interest in an adjoining one of 12 acres, for which he paid

£350, or 30 times the rent. Since he bought the fee, he has built a range of superior farm buildings at a cost of £500, tiled the floor of the house, put up an excellent kitchen range, and drained and reclaimed some of the land. His testimony as to the other tenants is that they felt satisfaction in having become owners, but those who had to borrow the balance of the purchase money had a hard struggle. They got a loan of money at 5 per cent., and were paying it off by degrees. The next farm consisted of only 2½ acres, held at a rent of £2, 15*s.*, which was bought for £73, of which £39 had been paid down. In this case the money had to be borrowed from different persons, one of whom got £1 for a loan of £10 for 10 months, and the buyer's sister 10*s.* for the loan of £11 for a year. He is a labourer, and his wife is a laundress. They are glad to have the land and expect that it will be free before they die. They never could save before, they say. The next tenant bought a farm of 5½ acres for £164. He is 92 years of age, has nine sons and two daughters. Seven of the sons are at sea, and one of them gave the purchase money and a further sum to erect an additional farm building. The next farm, containing 17 acres, which was held at a rent of £27, was bought by the tenant for £648, of which he paid down £226. The money had been saved at sea. Since the purchase he paid £87 for building material, and converted the thatched cottage into a two-storeyed slated house. He has seven children, too small to be any help, and lives altogether on the labour of the farm. The next tenant, an able seaman, had a farm of 10 acres, for which he gave £273, paying down £73, which he had borrowed from friends. His reason for buying was lest he should be turned out of the farm. No improvement has been made, but he hopes to pay off the debt. The next tenant was a widow, who had bought 9½ acres for £314; she paid down £79, of which £75 had been borrowed at 6 per cent., and all except £15 had been repaid. Last year she had a good bit of flax, which enabled her to pay off £10. She has

two daughters and a boy 15 years old, and the whole family work on the farm and have no other means of support. She bought the land lest she should be 'thrown out' and have to 'go lie behind a hedge.' The house is thatched, clean, neat, and comfortable. The next farm contained 51 acres, which was bought for £1583, which the tenant paid in full. He handed it over to his son to work, and lives himself on an adjoining property. The eighth tenant who was visited bought 15 acres for £422, and paid down £106, leaving the remainder on mortgage. He died soon and left the farm to his widow in trust for his son, a lad of 15, who was at sea. The father, who was a Scotchman, had sold the tenant-right of a farm in Fermanagh for £600, and preferred to buy the small farm to renting a greater one. The house had been greatly improved. The last case was that of a farm of 18 acres, bought for £508, of which £168 had been paid down. The purchaser died, leaving the lands to his widow for life, and then to his youngest son. She is 'laying by' for him, and is well pleased with the purchase of the farm. Mr. Shaw Lefevre admits that it might be dangerous to draw conclusions from these limited cases, and one property, if they did not confirm the evidence laid before the committee. In every case great benefit had resulted from the purchase. It had been 'a spur to industry and thrift,' and the increased industry and activity required to pay off the loan will, he thinks, establish a habit for the future. He remarks that many of the families were partly supported by contributions from members who were at sea, and that he has always contended that small landowners are not necessarily to be expected to derive the whole of their subsistence from the land. He feels confident that many of the older people he saw would in England be in the workhouse. Under the English system the whole of the nine small farms which he visited, containing 150 acres, would be thrown into one, and, instead of nine families, there would be one farmer's family superior in social position, but not superior in intelligence, to those

whom he saw; and four or five families of labouring men, with a quarter of an acre for a garden, without any hope of bettering their condition, and with no prospect for their old age but the poorhouse. He visited a second glebe, which was still to be sold."

As I have said before, it is really ridiculous to assert that these deeds and wills do not keep great numbers of estates out of the market; but if they do not, if their object is not specially to effect this, of what good are they? Is it to be supposed that the landowners tie their own hands, limit their powers over their own estates, and subject themselves and their successors to all the many inconveniences which necessarily attend the limitation of their powers over their estates for no prospect or hope of advantage? Such a supposition is absurd. These deeds and wills are notoriously framed for the express purpose of preventing the great estates dividing or coming into the market. They do most successfully accomplish the end for which they are so framed. They very greatly diminish the number of sales of land that would otherwise take place. They thus raise the market price of land very considerably, and by this means make it more and more difficult for small capitalists or tradesmen to purchase.

2. But let us look at another consequence of these deeds and wills.

The son constantly knows that, do what his father will, he (the son) is sure, under one of these deeds or wills, to succeed to the estate. The son is, therefore, to a very great extent rendered independent of his father. The parental control and authority are lessened just in those very cases in which they are most needed, and in which they ought to be increased rather than diminished.

As soon as the young man is 21 he finds himself surrounded by money-lenders, who make it their special business to devote themselves to the wants of such heirs, and who are always on the look-out for them. The father has no power to save the son from these harpies. He is

deprived of a great check upon his son. If the father threatens to cut off the son's allowance, unless his misconduct is discontinued, the son can, and often does in such a case, laugh in his father's face. The money-lenders are only too happy to relieve present wants, and to lead on to further loans. And in this way the heir often comes into the possession of his estate with such a weight of debts and liabilities around his neck, that during the remainder of his life there is no owner who has either capital or virtue enough to manage the estate decently. In such a case, would it not be an unalloyed good to all concerned if he could sell the land? Who is there who, among his acquaintances or neighbours, cannot recall many instances of this kind? If it were not for these deeds and wills, in all these cases a part or the whole of such an estate would come into the market.

3. These laws induce unprincipled or careless landowners to be tenfold more careless than they otherwise would be about the education of the child who is to succeed to the ownership of the estate. They know that however badly the child may be brought up, however extravagant, or reckless, or dissipated he may turn out, he cannot, no matter what may be his extravagance or folly, lose or lessen the estates or the social status of the family, but that the land will go undiminished to the next owner mentioned in the deed or will.

Not only does the knowledge that the estate must come to him, however he should behave, act most prejudicially on the child's character, but the knowledge that the child cannot get rid of it increases this evil, by rendering the father more callous as to the proper training of his child than he would be, if he knew that the future of the family estates and of the family status depended entirely on the character of the future owner. Many and many an heir is utterly demoralised by these causes. And then the country suffers in a double sense, for not only are the estate and the tenants neglected, but a man is put into the influential

position of a landowner, whose early education and habits have rendered him totally unfit to be entrusted with any influence whatever, and who never would have enjoyed any such influence if it had not been for these Land Laws which I have attempted to describe. These laws in this way often set up in influential positions, as examples to society, men of luxurious and idle habits, depraved tastes, and corrupted morals.

4. These laws keep in influential positions a large body of men, however unworthy of these positions they may be —men who have always known that they need not work, who have in consequence often grown up in ignorance and frivolity, who are so rich and in such influential positions as to enable them to exercise great influence on public affairs, and to make their own conduct and manners the standard for the thoughtless and weak-minded, who are supported and strengthened in their position by the state of the county franchise and the county magistracy, and who more than any other class foster habits of idleness, self-indulgence, and extravagance.

5. But I will try to explain another serious evil, which constantly results from tying up and charging these estates in the way I have described. In the majority of cases the owner does not come into possession of the land until he is past middle age. He is then generally married, and he has probably a family of children. He knows that he has no interest in the land beyond his own life. Sometimes he has a power of charging the estate to a small extent for younger children. If such a man really cares for the future of his family, look at the position in which he is placed. In nine cases out of ten he receives the property burdened with charges to his mother, his brothers, and sisters. He feels he ought to save something for his own younger children. Now, except in the cases of the larger estates, how can he hope to do this during the remainder of his life, and at the same time to spend money in the improvement and proper maintenance of the estate, its

buildings, farms, &c. His eldest son is to take the whole of the land. Every penny he spends upon the improvement of the estate is so much taken from what he could have saved for the younger children, and so much added to the eldest son's already unjust share. How often, under the pressure of these circumstances, is not the unfortunate owner obliged to neglect either the estate or his children? Of course, the more heavily the estate has been previously charged with debts, the worse does such a case become. It is difficult to conceive a system more certain to repress any efforts for improvement, or to discourage any outlay of capital upon the land. Mr. Caird, C.B., F.R.S., who is strongly opposed to the system of small estates, writing in 1851, in his "Agricultural Survey of England," says: "Much of the land of England—a far greater proportion of it than is generally believed—is in the possession of tenants for life, so heavily burdened with settlement encumbrances that they have not the means of improving the land which they are obliged to hold. It would be a waste of time to dilate on the public and private disadvantages thus occasioned, for they are acknowledged by all who have studied the subject."

The same gentleman, on the 25th September 1877, at the meeting of the Social Science Congress at Aberdeen, in his address on "Economy and Trade," with especial reference to the condition and prospects of British agriculture, said, "The evil that exists in the present land system is, not that we have great proprietors amongst us—for, as a rule, their estates are the most liberally managed, but it is because of the too common existence of the possession of land by persons so heavily encumbered by settlements and debts, that they are incapable of doing justice either to their property or to themselves. For the sake of progress in the fuller development of our agricultural resources, it is desirable that the land in such cases should pass into other hands. And the advantage of enlisting a large body of competitors for it, when exposed for sale, induces the offer-

ing of estates, whenever practicable, in single farms, and thus tends in some degree to its subdivision."

In foreign countries, where the land is not put into such a position by deeds or wills that it cannot be sold—where, in fact, the land can always be sold whenever it is expedient for the owner to sell—an owner, if embarrassed by debts, or mortgages, or claims, would sell the whole or part of the estate, and having paid off all his debts, would either devote himself to some other employment or business, or would cultivate properly the portion of the estate remaining to him after the sale. These evils in Great Britain and Ireland can never be effectually remedied, or even seriously mitigated, as long as landowners are allowed by law to tie up the land by deed or will for long series of years after their own death. It is true that the Legislature has attempted to relieve landowners so circumstanced, but these measures have only been partial and most insufficient palliatives for a widespread evil.

6. This system tends very greatly to retard the progress of agricultural improvement.

Let any one who knows any large number of the landowners, or "the landed gentry," as they are popularly called, ask himself how many of their sons are ever taught scientific agriculture, or the details of estate management. Generally, when they come into possession of their estates, they know as little of either as they know of the details of a Manchester business. They generally understand hunting, shooting, fishing, billiards, athletic sports, perhaps in rare cases something of art. They know the points of a horse. They understand dogs, and all descriptions of game. But how many know anything whatever of scientific farming, of plantations, of orchards, or of scientific gardening? Let any one who knows much of them look round him and ask himself this question. When they come into their estates they are, so far as the details of estate management are concerned, entirely in the hands of their agents or stewards. The very ignorance of such landowners as I

am describing makes them lean against changes and improvements. Their ancestors and predecessors have gone on in a certain way, why should not they? As they cannot estimate the value of reforms, the very name of them is hateful to them. These reforms require study, thought, and mental exertion, to which they have not been trained.

I remember a singular instance of this. One of my intimate friends, a man who had been brought up in hard-working business habits, came some years ago into the possession of a large estate, in a part of the country in which anything like scientific farming was utterly unknown, and in which the ordinary farming was of the lowest possible description. The land in all that part of the country was a heavy clay soil. Drainage was unknown. The farms for miles round were more or less covered with rushes, and with the herbage springing up in soil charged with moisture. My friend sent for a scientific farmer, and said, "What must I do in order to reform this state of things?" Under this gentleman's advice, tileries were erected on the estate, drainage tiles were made, gangs of drainers were engaged, the estate in a few years was drained from end to end. The products of the estate were greatly increased, the herbage improved, the rushes disappeared, rents were raised, and willingly paid. But while this was being done, and until the results had become too plain and too remarkable to be denied, my friend was subjected to sneers, insults, and opposition of all kinds from the neighbouring squires, who seemed to hate the interference with the old ways.

Is it then astonishing that in 1870 a committee of the House of Lords, consisting of four great landowners—the Duke of Richmond, the Marquis of Salisbury, the Earl of Derby, and Lord Egerton of Tatton—reported that of the 20 *million* acres of land in the country requiring drainage, only 3 *millions* had been drained, and that, taking into account also all other necessary improvements, only *one-fifth* of the land had been properly dealt with? Is it, therefore,

surprising that Mr. Mechi, the eminent agriculturist, estimated that the land does not yield one-fifth of its proper production?

However intelligent the agent or steward of these landowners may be, the ignorance and idleness of the latter, joined often to their want of ready funds, and to the heavy charges on their estates, oppose an insurmountable bar to anything like a proper development of the land. And even when the landowner is sufficiently intelligent to promote improvement, he is too often hindered by the state of the charges on his estate, by the knowledge that he will only possess it for his life, and by the necessity of providing for younger children during the short continuance of his possession. All this results from the deeds and wills I have described. Of course, I well know that there are happily many bright exceptions to the description I have endeavoured faithfully to draw—men who deeply feel their great responsibilities; who do all they can to fit themselves for the proper performance of their important duties; who remember that "property has its duties as well as its rights;" and who are the centres of kindliness and intelligence in their influential stations. But these are exceptions, as compared to the general character of the class I have described. And whether I have described fairly or unfairly, let each reader look around and consult his own personal experience. These bright exceptions, I contend, exist in spite of, and by no means as a consequence of, our present system of Land Laws.

I must reserve the further consideration of the consequences of these deeds and wills until my next letter.

LETTER V.

EVIL CONSEQUENCES (*continued*).

February 23, 1878.

In No. IV. I endeavoured to state, as simply and calmly as I could, some of the consequences of the deeds and wills which bind an estate for so many years. I tried to show that—

1. They prevent the sale of estates which would otherwise come into the market.

2. They lessen due parental control.

3. They induce careless landowners to be tenfold more careless than they otherwise would be, about the education of their children.

4. They maintain in influential positions men unworthy of those positions.

5. They deprive many landowners of the means of properly managing their estates.

6. They tend very greatly to retard the progress of agricultural improvement.

In the present letter I propose to continue the consideration of the consequences of these deeds and wills.

7. The power which our law gives to landowners to direct not only the succession to, but the management of, the land for so great a number of years after their death renders it necessary in preparing these deeds and wills to make them very long and expensive. In them the landowner provides for many circumstances and contingencies which may happen during all the many years during which the deed or will continues in force. For after the deed is

once made, or, in the case of a will, after the death of the owner who made it, no alteration or addition to meet new or overlooked contingencies can be made. It is necessary, therefore, in framing these deeds or wills to introduce numerous lengthy and carefully-worded provisions to meet all kinds of possible events which may happen after the maker's death. The obscurity that this sometimes—nay, often—introduces into these deeds or wills is scarcely credible. It is no uncommon thing for them to be laid before two or three of the ablest counsel, and for each of these learned gentlemen to give a different interpretation of their meaning. Nothing then remains to the unfortunate victim of this perplexity but to resort to litigation, and to seek the interpretation of the Courts, and very fortunate may he count himself if he finds the judges themselves agreeing as to the meaning of the words. I have known cases where such litigation has gone on for years and years; and I knew one such case where, the entire value of the estate having been absorbed in the costs of the litigation, the only struggle which remained was which firm of solicitors was entitled to the estate in repayment of their costs!

8. This system of deeds, wills, long leases, and mortgages, all of which may bind the land for many years after they are made, renders it often very difficult and very expensive for a purchaser, even when he can find a small plot of land for sale, to ascertain what the real state of the title to such property is. It is often affected by so many ancient deeds, wills, mortgages, and leases—these are often scattered in so many hands—it is often so difficult to find out whether all the persons entitled under the various deeds and wills are dead, or whether their title to the property is extinguished, there being no registration office here, as in many foreign countries, where a purchaser can ascertain at a glance from the registration book every deed which affects the land—that the mere inquiry into the title of a small plot of land and the legal expenses attendant thereon, are often quite sufficient to deter a man who is not rich from ventur-

ing to agree to buy a plot of land which he would otherwise have been glad to purchase. And such is the confusion that sometimes exists, that the examination into the title of a small farm of 5 or 6 acres may be quite as difficult and expensive, if not more so, than the examination into the title of an estate of many hundreds. So lately as the month of December, 1877, a poor man who purchased 3 acres of glebe land and £15 per annum of tithe rent-charge, had to pay £117, 9*s.* 2*d.* for the mere legal expenses attending the examination of the title and the deed conveying them to him.

Of course, where an estate has been laid out for sale in building plots, and the title has been investigated once for all, and a proper statement of it prepared for the use of all purchasers; or where an estate has been for generations in one family and has not been encumbered or affected by many deeds or transactions, it may well happen, as I see stated in your columns, that a fortunate purchaser may invest much money in land, and yet have comparatively little to pay to the lawyers. But a man must know little or nothing of the subject, if he supposes this to be the case with respect to the majority of sales in the agricultural districts. There, the legal expenses are often enough to deter a prudent man who wishes to purchase a small plot of land.

9. But, even when all this trouble has been taken, and when all this expense has been incurred, there is in very many cases no absolute certainty that there is no flaw in the purchaser's title, or that no undiscovered charge may be sprung upon him. Such a thing is impossible in many foreign countries, because there, *before any deed or will or mortgage can be rendered binding or valid*, a short account of it must be written out upon the page of the public registration book which relates to the particular piece of land. And if, when a man buys land and gets his deed of purchase entered in the registration book, a former deed has been made, but not entered on the page of the registry book, it will not affect the subsequent purchase in any way, or be

of any validity as against such purchase. But it is not so here. If the vendor of land is a rogue, there is often no perfect security for the purchaser that he has discovered all the prior charges upon the property.

As an instance, I may mention what happened to a friend of mine. He purchased a small estate in the south of England. Before purchasing, he made his solicitor institute a most minute search into the state of the title. He was informed that he might safely complete the purchase, and that there was no charge upon the property, except those of which he was aware. The purchase money was accordingly paid down. The former proprietor executed the deed of conveyance, and my friend thought he was safe. The former proprietor was insolvent and left the country. A short time afterwards, my friend was informed that the estate he had purchased was mortgaged in £1,200 to another person, who produced the mortgage deed, and claimed the money due to him from the estate, and my friend was obliged to pay. In many foreign countries the mere legal formalities attendant on the transfer of a plot of land are very simple, certain, and inexpensive. It is quite as simple as the transfer of a ship, or as the effecting of an insurance on a house, is with us. There is no need for a long, costly, and uncertain search into the title. The buyer has only to go and look at a page of the registry book to find out everything about the title. There is no need for a long, unintelligible, and costly deed of conveyance, because such a deed would be utterly useless, neither the seller nor the buyer being able to tie up the estate for future years, and therefore having no need, and no power, to swell the deed with provisions for all sorts of possible future contingencies. A short, simple document, costing a few shillings, settles the matter between buyer and seller. A copy of it is entered in the registration book, and the whole matter is completed, and, what is equally important, completed with perfect security for the rights of the purchaser.

The benefits actually realised in South Australia from

such a system of registration are thus described by Sir Robert Torrens, the author of the measure, in a work published by him, and entitled "The South Australian System of Registration of Title:"—

"1. Titles being indefeasible, proprietors may invest capital in land, secure against risk of deprivation and the no less harassing contingencies of a Chancery suit; mortgagees, having also no further occasion to look to validity of title, may confine their attention to the adequacy of the security. 2. A saving amounting on the average to 90 per cent., or 18*s.* in the pound sterling, has been effected in the cost of transfers and other dealings, irrespective of the contingent liability to further expenses resulting from suits at law and in equity, the grounds of which are cut off by the alteration of tenure. 3. The procedure is so simple as to be readily comprehended, so that men of ordinary education may transact their own business. 4. Dealings in land are transacted *as expeditiously as dealings in merchandise or cattle, fifteen minutes* being the average time occupied in filling up the form and completing a transaction."

10. But let us proceed with the enumeration of the consequences of these Land Laws. I have shown how they cause the land more and more to accumulate in fewer and fewer hands and in ever-increasing estates. I have shown that even advocates of the present system, like Mr. Froude, admit this. I have shown how, for many years, they have been tending gradually but steadily to absorb all the small freehold estates of the yeomen into the great properties, and that even Lord Derby is compelled to admit this. This has gone on until the old race of small yeomen freeholders, who only a few years ago were to be found all over our islands, has almost entirely disappeared. By doing this, these laws have deprived the small farmers, the shopkeepers, and all our vast number of peasants, of almost every chance of acquiring land, even in the smallest portions, except small building plots in the immediate neighbourhood of towns. These laws also promote more and more a system of large

leasehold farms, and lessen year by year the number of the smaller leasehold farms. They thus year by year separate the large peasant class more and more from the land and from the next step in the social scale. They render it more and more hopeless for a peasant either to acquire land, or even to rent a small farm. They thus deprive him of all strong motives to exercise exertion, self-denial, or economy. They make his future hopeless, and condemn him to poverty. Take the case of a young Norfolk peasant. The village school is often only one conducted by a poor uncertificated woman teacher. He leaves this school at 9 or 10 years of age to add to the small earnings of the family. He lives in the small crowded cottage of his parents. At 21 years of age, he may earn 12 or 14 shillings a week. To hire a cottage for himself is most difficult, for the number of cottages is kept as small as possible by the landowners, so as to avoid any surplus poor population settling on their estates, or near their mansions. Has such a peasant, by any number of years' prudence, saving, or self-denial, any chance of buying or building a cottage, or of buying a small plot of garden ground, or the smallest farm? The very supposition is ridiculous, from the utter impossibility of his doing anything of the sort. Can he obtain a cottage and garden on lease? Certainly not. Must he, then, remain a poor peasant all his days? He must, unless he can persuade some charitable person to enable him to emigrate, and unless he can tear himself away from his relations and all his old associations for ever. What has he to look forward to in his old age? Nothing but the workhouse, if he is rendered too ill or feeble to work and his children cannot support him. Can this be considered a healthy or sound condition to which to have reduced the numerous peasantry of the three kingdoms? And all for what? Solely to support in enormous wealth and luxury a very small class of landowners.

It is difficult to make English readers, who have not travelled, understand how strangely different is the condition

of the small farmers and peasants in the greater part of Western Europe. Throughout the Republics of Switzerland and France, the great empire of Germany, and the kingdoms of Italy, Holland, and Belgium, the laws restricting the sale of land having been abolished at various periods since the great French Revolution of 1789, the land has been subdivided into estates of all sizes—from the garden of a quarter of an acre, or the small farm of 3 or 5 acres, to the larger estate of thousands of acres. The consequence is that a small farmer, or a small shopkeeper, or a peasant, if prudent, economical, and industrious, may always look forward to the time when he may buy his own freehold, and start as an independent owner. Millions of such small owners are to be found throughout the length and breadth of these countries. And how different, how strangely different, is their condition to that of our own dependent and hopeless peasantry. I remember the case of an educated, respectable German peasant. I spent several autumns in the village where he lived. When I first went there he was engaged to be married, and he was hard at work—at peasant's work—during the day, and at some handiwork in the evenings, earning and saving with the intention of buying a piece of land and building his own cottage house upon it, and he was delaying his marriage until he and his betrothed could accomplish this. At my last visit to his village, some four or five years since, he told us with pride that he had bought his land, built his house, and married, and that he was doing well. Such a history in England would be impossible.

11. But many and great as are the evils which this system of Land Laws causes in Great Britain, these evils are very seriously aggravated in Ireland by the additional curse of absenteeism. I showed in No. I. that about one-half of the whole of Ireland—*i.e.*, one-half of 20,159,678 acres—was owned by only 744 persons, and that two-thirds of this vast extent of land was owned by only 1,942 persons. But, in addition to the fact that the greatest part of

Ireland is thus monopolised by so small a number of persons—an evil, as I think, of vast magnitude—a great part of these Irish landowners do not live in Ireland, but in London, or on English estates, or in foreign capitals. Their rents are collected by agents in Ireland, and are sent to England or abroad, to be spent among strangers and to enrich them, instead of being spent among their own tenants, farmers, schools, charities, and tradespeople to enrich them. This absenteeism deprives the Irish people of the only compensation which renders the system of Land Laws which produces these great estates excusable—viz., the presence and the active good influence of a respectable resident landlord. Such a man ought to be, and is supposed in theory to be, the friend and comforter of his poor tenantry, the person to whom they can apply in need and in difficulty, their adviser and protector, the encourager of all the local charities and schools, the kindly entertainer of his neighbourhood, the magistrate who is ready to advise in local difficulties, the general centre of the district. If he is not this, what is he but the man who takes the larger share of products of the earth, raised by the labour of others—a burden, in fact, which the cultivators of the soil must support without return? But worse than all this, the absence of these men throws the farmers and labourers of Ireland into the hands of agents, who manage for the absent owners. How is it possible that these agents can feel the same interest in the tenantry, with whom their principal duty is that of extracting rents and of rigorously exacting the performance of the stipulated duties? The natural tendency of the agent's work is to render him hard and exacting. The temptation of his work is to be much more than this, for his own ends and gain; and what remedy, what effective remedy, has the poor tenant, with the landlord at a great distance, and the agent with great powers close at home?

Does an agent support the schools and religious ministers? Does an agent encourage and support the

local charities? Does an agent perform the hospitalities of the hall? Does an agent sit on the bench and watch over the interests of the neighbourhood? Is an agent free to intervene without a slow and often forgotten application to the owner in sudden cases of distress? Does an agent interest himself in the thousand-and-one works of charity and good which a good landlord looks on as his simple duties? Is it not perfectly well known, that in an agent-ridden country like Ireland, with the owners separated by the sea, the contrary of all this is generally the case? All this has been most keenly felt for many generations in Ireland. O'Connell raised his powerful voice against it. The leaders of the Irish people cry out against it now, earnestly and vehemently. But there is not the slightest possibility of applying a remedy to this evil, except by repealing the laws, which have produced it as one of the many bad consequences of our Land Laws.

Mr. Drummond, the Under-Secretary of Ireland, wrote to the Irish magistracy those now celebrated words, "Property has its duties as well as its rights;" but it seems to me that the Irish absentee landowners forget their duties almost entirely, while they are only too keen in the enforcement of their rights; and yet we English are surprised and indignant that, when we and our laws have produced this state of things in Ireland—viz., an absentee class of landowners in a country two-thirds of whose 20,159,678 acres are held by only 1,942 persons in this year 1878—the Irish people should be discontented and some of them disaffected.

LETTER VI.

EVIL CONSEQUENCES (continued).

In No. IV. and in No. V. I endeavoured, without mentioning names, or making any attack on individuals for what I consider the faults of a system of laws, to point out, as shortly and clearly as I could, some of the direct consequences of our English Land Laws, which permit an owner to bind an estate by deed or will for so many years after the owner's death.

I endeavoured to show that these laws :—

1. Prevent estates being sold which would otherwise undoubtedly come into the market.

2. Lessen due parental control.

3. Induce careless landowners to be tenfold more careless than they otherwise would be, about the education of their children.

4. Maintain in influential positions men unworthy of those positions.

5. Deprive many landowners of the means of properly managing their estates.

6. Tend very greatly to retard the progress of agricultural improvement.

7. Render it necessary to make the deeds and wills very long and expensive.

8. Render it often very difficult and expensive for a purchaser to ascertain the state of the title of a plot of land he may wish to purchase.

9. Often leave the actual title to a plot of land uncertain,

spite of all the labour and expense bestowed on its careful investigation.

10. Deprive the small farmers, the shopkeepers, and the peasants of almost all chance of buying land.

11. Aggravate all the above-mentioned evils in Ireland by the curses of absenteeism and agent management.

In this letter I propose to show what are some of the less direct, but the no less certain, consequences of our English system of Land Laws.

Few persons, who have read or thought at all, will need to be told by me that for many generations the landowners have been the most powerful class in the State, or that they have almost monopolised the power of one House of our Legislature, whilst they have been, when united, the predominant and far the most powerful section of the other, or Lower House. It is not, therefore, matter for surprise, knowing what we do of human nature, that they should have used, or that they should still use, their opportunities in the promotion of the power and interests of their own class, however patriotic and honourable their conduct may have been where their own class interests were not particularly concerned, or not more concerned than the general interests of the community.

I propose, therefore, to explain, as simply as I can, some of the advantages and privileges which the class of the landowners have secured for themselves, merely remarking that, if the Land Laws I have described had not bound them together by a strong sense of common interest, and supported them in a position of great wealth and power, they never would have been able to retain so long the exclusive privileges which, in days of greater ignorance and of less general wealth, they created for themselves.

12. THE LAW OF DISTRESS.

If a Manchester merchant were to hire from a jobmaster a carriage and pair for two years, at £400 a year, and at

the end of the first year were to inform the jobmaster that he was unable or unwilling to pay for the first year's hire, the only remedy which the jobmaster would have, in order to obtain his £400, would be to commence an action to recover his £400, to go to trial, to recover a verdict and judgment, and then to instruct the sheriff to seize so much of the merchant's goods, &c., as would be sufficient to satisfy the claim for £400 and the costs of the action and other proceedings. If, while these proceedings were pending, the merchant should become insolvent, the jobmaster would be only able to come in with the other creditors, and to obtain as much for each pound that was owing to him as the other creditors obtained. Surely all this is fair and equitable. The merchant might be able to show at the trial that he ought not to be called upon to pay, on account of the fraud or misconduct of the jobmaster, or by reason of the terms of the original agreement, such as, for instance, that the jobmaster was not to be paid, if the carriage or horses did not answer certain stipulated requirements, &c., &c.

But the powerful class of landowners long ago secured themselves against the delays and expenses and uncertainties of law, and so arranged the law that they should have a short, easy, and summary remedy in their own hands for obtaining their rents, freed from all necessity of applying to lawyers.

If a farmer take a farm for, say, two years, at a rent of £400 a year, without a word being said about "distress" or anything of the sort; and if, like the merchant, he is unable at the end of his first year to pay his rent of £400, the landlord is enabled by the law, by means of his agents, and without the trouble, or expense, or delay of an action, or trial, or judgment, or execution, to enter upon the farm, and to seize so much of the cattle, stock, furniture, &c., as will, when sold by public auction, suffice to satisfy his claim for rent and for all the expenses of entry, seizure, taking care of the property seized, the sale, &c. Nay, more, if the farmer proves to have many more creditors, and to owe

much more than £400 to each of several other creditors for the very cattle, stock, and furniture so seized, the landlord may disregard these unfortunate creditors, and, even if the farmer has been made insolvent and his affairs put into the Bankruptcy Court, so that his property may be divided equally and equitably amongst all the creditors, as in the case of the merchant, the landlord may still seize so much of the farmer's stock, cattle, furniture, &c., as will satisfy his £400 and all the costs he, the landlord, has been put to.

If this is a fair law for the landowners, why should it not be also fair for the jobmaster and for all men of business? Why should not the Manchester merchant be able to distrain on the calico printer for the value of the cloth he has sent to be printed, or upon his customer for the goods he has purchased from him; why should not the shopkeeper be allowed to distrain upon the customer who has carried off a large amount of goods on credit, and who does not pay when that credit has expired?

Why should the landowner, in short, be allowed to take the law into his own hands, and to be favoured more than the rest of the farmer's creditors, when all other creditors except landlords are compelled to resort to expensive legal proceedings to make out their claim, and, in case of the insolvency of the debtor, only to take their proportion of what remains to be divided? The only reasonable answer is that the landowning class have been rendered by the Land Laws so strong and so united that they have been able to obtain these laws in their own favour, and to defend and keep them after they were once obtained.

This law of "distress" was originally derived from the ancient feudal law; and after the power of the Church and Crown had been greatly diminished, and after Parliament became, as it did after the expulsion of James II., mainly the representative of the landowning class, this law was rendered more stringent against the tenants by many Acts of Parliament.

13. THE LAW OF FIXTURES.

Another extraordinary landowner's law, which was established in feudal times, and which the landowners have been strong enough to retain down to the present day, though not in all its original severity and unfairness, is the law relating to what are called in legal phraseology "fixtures."

In the feudal times it was settled that the law should be that whatever a tenant of land (whether tenant only from year to year or tenant under a lease) annexed to the land during his tenancy should belong from that moment to the landowner, and not to the tenant, who had paid for it and annexed it. All the tenant's legal right to such annexed thing, however costly it was, ceased from the moment it was annexed.

But might made right in the feudal days, when these laws were first enforced, and might makes these same laws, though somewhat modified, right now. The trading classes struggled from the earliest time against this landowner's law, and gradually obtained exemptions in favour of "trade fixtures," or those erected for the purpose of trade and business, but the law has always operated, and still operates, most severely against agricultural tenants, though some very insufficient and unsatisfactory modifications, subject to conditions which seem designed to render them nugatory have recently been granted to them, to satisfy the growing discontent—a discontent which accompanied and was the result of growing intelligence. To show how hardly this law presses upon the tenant, who most probably knows nothing whatever about it when he commences his tenancy, let me give a few instances.

If the tenant erect a conservatory on a brick foundation, he cannot remove it at the end of the tenancy, however short that tenancy, or however much the conservatory may have cost him, but it becomes, as soon as erected, the property of the landowner. So, too, if the tenant erect

greenhouses in his garden, or a veranda to the house, or wind or water mills, or storehouses, they belong to the landowner as soon as erected, and cannot be removed. I give these merely as instances of what seems a most unjust and inexpedient law. And it must be carefully borne in mind that the law is equally stringent, even if the "fixture" can be removed without doing the least injury to the property to which it is affixed, and it is equally stringent, no matter what the cost or value of the "fixture" may have been. It is no answer to say that the tenant, when he took the house or farm, knew the law, and, therefore, knowing the law, chose for some reason to go to the expense. As every lawyer knows, and as the thousands of cases litigated on this subject show, not one man in ten thousand knows anything about this law; it is scarcely ever mentioned in leases, and even where it is, it is only with reference to the "fixtures" already on the premises; and it is certain that few lawyers even, without consulting the great tomes on landlord and tenant law, and on "fixtures," would be able to say offhand whether a particular article were a "fixture" or not, or were subject to this strange power and privilege of the landowner.

It is a law which has existed at least since Edward I.'s reign. It emanated from the power of the great landowning class. It is sustained by the same power now.

Of course, if a valuable "fixture" could not be removed without injuring the premises to which it was attached, no such removal should by law be permitted, until ample compensation had been made to the owner of the premises for all such injury, whether prospective or otherwise. And it must be remembered that, if this law were repealed tomorrow, it would always be open to the landlord, before letting his premises, to make it a term of the agreement that the tenant should put up no fixture and make no alteration in the premises during the tenancy, and that, if he did, he should pay heavy compensation, and that the fixture should belong to the landlord. In such a case, each

party would be fairly and fully warned, instead of a tenant being trapped, as now, by ignorance into a heavy expenditure, all of which goes to the benefit, not of himself, but of the landlord.

14. THE ADMINISTRATION OF THE GAME LAWS.

I hope it will not be supposed that I am about to say a word against all game laws, or against that love of sport which draws away the legislator from his wearing and trying midnight labours, the merchant and man of business from his office and his desk, the man of fashion from the town, the student from his books, and the lawyer from his courts and crowds, and induces them all for a few months or weeks every year to spend the day in pure air and in exhilarating and bracing exercise, and makes them forget for a time the toils, frets, and labours of their lives. I have spent too many happy and healthy days in this way not to appreciate their immense value to our race and nation. It is not of all this I write. Nor do I think that it is unjust that, if a peasant, or any other man, enters on my land and shoots or steals my pheasants or other game, he should suffer for his act. But certainly, in these as in all other cases, one would wish that the offenders against the game laws should be tried as fairly, and punished as considerately, as offenders against any other branch of English law.

No judge on our English bench would dream for a moment of trying any case in which he was even remotely interested. Even if only a small shareholder in a railway, he objects to sit and try a cause to which that railway is a party. But the landowners have been strong enough to secure for themselves the right of trying and adjudicating upon many game-law offences, in which they all, as a body, are deeply interested. It is true that Squire A. would not try a poacher who had committed an offence upon his own estate, but he sits and tries a poacher who has committed an offence upon the adjoining estate of Squire B., and so

they help one another. I was, a few years ago, at a dinner table in London, opposite one of the kindest and most genial of men. He had for many years presided as chairman at the quarter sessions of a great game-preserving county. He told us, in his hearty way, that it had often happened to him, that men charged with various offences had been tried before him at sessions where the case was so weak, that he had turned to his brother justices and said, "Oh, there is really no sufficient evidence against this man," and that he had been answered, "Oh, you must not let him off, he's a damned poacher!"

In some poaching offences one landowning justice may sit alone, and, without jury or any check, try game offenders and impose sentences which practically entail the utter ruin of the offender's family and the destruction of his good name for ever. In other cases, two landowning justices must sit together. But what chance of mercy, or of really fair trial, has a known or suspected poacher before such a tribunal? I remember the great and good Sir Thomas Fowell Buxton, over whose land I often shot, once saying to me, "A poacher has no chance of mercy before these tribunals. I have often had to protest against the sentences pronounced by my brother justices for really trivial offences."

And truly, though I do not wish to excuse the offence of poaching, we ought to look at the temptation to which the peasant is exposed. The love of sport, which is as strong in his breast as in the squire's, and the stimulus he receives continually by the muttered complaints of the farmers against the undue quantity of game—these are in league to tempt the poor peasant to dream that there is a vast difference between shooting or snaring game and stealing poultry.

That others, besides himself, also think there is a great difference, is surely shown by the fact that some of the best of landlords and of men, now and then, as I have known, select as a trusted and well-paid gamekeeper, and as the

companion of their pleasant and healthful hours of sport, a man who, up to the time of such selection, has had the well-earned reputation of being the most successful poacher in all the country round.

But there is another view of this game-law administration which I would have your readers calmly consider.

The fact that the landowner is practically made by the law, in many cases, preserver, prosecutor, judge, and punisher, stimulates the rancour of the landowner against the poacher, and hardens his heart. I have told what Sir Thomas Fowell Buxton said; let me narrate what I myself have seen.

Some years ago I was invited to spend a day or two with the steward of a great nobleman, distinguished by his learning, his generosity, his philanthropy, and great statesmanlike qualities. But on his vast estates he was one of the keenest of game preservers.

One afternoon my friend took me up to the hall, to see the young pheasants in their pens. There were hundreds nearly ready to be turned into the preserves. While we were looking at them the head-gamekeeper said to me, "Would you like to go and see the dog we hunt the poachers with?" I hardly realised his question, but we all walked up to a yard surrounded by high walls. In one corner of this yard was chained, by a long heavy chain, fastened to a great block of stone, one of the largest and fiercest-looking dogs I ever saw in any country. When it saw us, though its master was among us, it did nothing but run in a semicircle, straining its chain to the uttermost, uttering a kind of shriek of fury, and foaming from the mouth. I never saw such a sight. I got near to the door of the yard, and kept my hand on the latch, while the gamekeeper said, "Now, sir, if that chain broke, one of you would be a dead man in a minute." I said, "But you don't mean to say you hunt poachers with that horrible beast?" "Oh yes," he said, "we do, but we muzzle him. But even then, if we did not get up quickly, he would

strangle a man he had got down, for he rams his snout into the man's neck, and if his muzzle were not tight, he would get hold of the fellow's skin, and begin tearing it off."

Is comment necessary on such a story? But is such a landowner fit to be a judge in any poaching cases? Surely those who are so intensely keen after sport should not be trusted with the trial, and still less with the punishment of the offenders. I never could understand what difficulty there could be in sending all game-law offences to the admirable and independent County Court judges, except, indeed, the one fact that the class of landowners are strong enough to keep this jurisdiction in their own hands.

15. WANT OF LEASES.

Another singular and most unfortunate consequence of these Land Laws is the unwillingness they naturally create in the minds of nearly all landowners to grant leases to their tenants. The landowners know that they are in a most singular and favoured position—that it is immensely to their interest to stand by one another and to foster the political power of their class, in order to protect their vast privileges, and that the most effectual way of doing this is by controlling the county elections, and securing, as far as possible, a majority of landed-interest members in the House of Commons. They could not do this if their tenants were really independent. The tenants would be practically independent if they could obtain leases for 21 or more years. And for this reason the landowners for the most part refuse leases, and often give their tenants to understand that they must vote "right." There are fewer farms than there are applicants, and there is consequently no difficulty in letting the farms from year to year on these conditions. This enables the landowner soon to get rid of a tenant who ventures on independent action. But look how the want of a lease operates. When the tenant leaves, he practically forfeits, if he has laid out much capital, nearly all he has

expended in improvements on his farm. All expensive drainage works, or works for the collection and utilisation of the sewage and manure, or improvements of farm buildings, erection of agricultural machinery, &c., generally go to the landlord, without any compensation, when the tenant is turned out. How then can a tenant of capital venture on extensive outlay or improvement, without any real security that he will reap the return, nay, without any security that he will not lose his outlay? All great writers on agriculture bewail this state of things, and it is only necessary to compare the vast superiority of a farm held under a long lease, with a similarly-sized farm held without lease, from year to year, to see how prejudicially the system operates, both on the state of the farm and on the enterprise and character of its occupier. Many of the farmers themselves have long felt this most bitterly, so bitterly that the present Government attempted to appease them, to some extent, by passing one of the most delusive Acts that was ever designed—I mean the Agricultural Holdings Act, 1875. This Act pretends to give to the farmers a right to compensation for unexhausted improvements, but the Government took care to render the Act practically a nullity by not making it compulsory on the landowners. Instead thereof the Government enabled the landowners to avoid being bound by its provisions whenever they pleased. Nearly all landowners have already done this in nearly all parts of the kingdom, and consequently the farmers are practically just in the same position as before. This shows most remarkably the strength and union of the landowners in both Houses of our Legislature.

16. THE COUNTY FRANCHISE AND EDUCATION.

As in the case of leases, so in the cases of the county franchise and of education, the vast privileges and power which the landowners' class possess, owing to the Land Laws, make them very naturally, with some bright and patriotic

exceptions, opposed to progress and reform, while the very delay makes reform, especially in the first of these subjects, more and more dangerous for their own interests as a class. Forty years ago the agricultural labourers had no leaders, no papers, no education, and very little intelligence. Now they have leaders and papers and a growing though ill-directed intelligence. Their journals are spread far and wide among them—are read in the village beerhouses—are discussed everywhere. And what journals! They are filled with the most ignorant and injurious socialism. They openly argue that each peasant should have a share granted to him of his rich landlord's estate, and that every peasant should have a plot of land of his own, not one earned by labour, self-denial, and economy, but one granted to him by the State! They abuse the present system, not because it is the exaggerated result of unfair laws, but merely because the land is not divided among the peasants! They ignore all laws of political economy—all the experience of ages—all that is being done in other countries. They simply cry out for an impossible social revolution. And to this they have been brought by generations of neglect and ignorance, by being utterly divorced from the soil on which they live, by finding it yearly more and more difficult to obtain decent cottages, by a want of any future except the workhouse, and by knowing that they are refused all share in the representation of the country, and all means of improving their position. Is it wonderful that the landowning class should dread the evil of their own creation?

And even now they are, with brilliant exceptions here and there, opposing the advance of any really satisfactory system of education. Round where I live, in an agricultural district, I know of no School Board but one, and that one was forced upon a rich but unwilling parish by the landowner, who is, shame be it said, not an English, but a foreign lady! The Act of 1875 is, as far as I can learn, a dead letter; and in my own parish, although there is a very good school supported by charity, for children who choose

to go, how little can be done, compared with what ought to be accomplished, unless the children can be detained until a later and a maturer age!

"Where there is a will, there is a way," but where there is no will, what then?

I met three or four years ago a titled man, a landed proprietor in one of the richest agricultural counties of England. He is a good man, a liberal landlord, kind to the poor, careful about the small material wants of his labourers, and he is very rich. I knew something of his neighbourhood, and I asked him if he had a school in a village I will call X. He said, "Oh yes." I said, "Have you a certificated teacher?" He said, "No; we have a respectable woman, who teaches the children." I said, "Has she not been trained to teach?" He said, "No; we cannot afford to pay for a trained teacher. Our teacher is quite sufficient for our school. I object to increase the burdens of my farmers to pay for expensive teachers." The idea that he, who owned the whole village and all the land around, ought to pay, never crossed his mind. He disliked the idea of the peasants having really efficient instruction, and you may imagine how little developed is the intelligence of his peasantry. You will not wonder that the peasantry of that part of the country are under the influence of the peasant demagogues, and are possessed with wild ideas of their rights; and yet this titled landowner is a very able and enlightened man, and far superior to the majority of his class.

17. THE STIMULUS TO EXTRAVAGANCE.

Let me say one word on this consequence of our Land Laws. By them we have created a class of men who are far richer than any corresponding class in any other civilised country. There are, no doubt, very rich proprietors in other countries. But they are only exceptional cases as compared to our class of landowners, numbering as it does among its ranks men with incomes that seem fabulous

to mention, arising from their vast estates. But what is the effect of all this? In all classes below them it stimulates a striving to be as rich as the next classes above. This effect is seen far down in the middle classes. Extravagance and luxury are unduly encouraged. The supposed necessary cost of life is increased. The expenses of the home life are swelled. The simple life of most of the middle classes, where such laws do not exist, would be despised and thought mean in England. The life and duties of the mistress of a middle-class family in Germany, Switzerland, and the country districts of the United States, would be thought degrading. There is no country in the world where the life of a middle-class family is so expensive as in England, and surely neither the happiness of the family nor its moral tone is improved by all this. It is much more expensive to educate the children, much more difficult to start them in a career, much more expensive to provide them with a home here than in the countries where such Land Laws as ours do not exist.

I have now completed this branch of my subject. I shall try in my future letters to explain, shortly, how strangely different a state of things exists in the Republics of Switzerland and France, in the Empire of Germany, and in the Kingdoms of Belgium, Holland, and Italy.

LETTER VII.

ON REGISTRATION.

May 1878.

THE language sometimes used about registration shows that what registration is, is not understood. Registration, no matter in what country, is nothing more than a plan of keeping a public record of any transfer or agreement affecting land, when such transfer or agreement has been completed.

The way in which it is worked is this:[1] an office is opened for a given district. Books are kept there, in which each separate estate has its page. Say that A. is the owner of a field named Whiteacre, and that B. wants to buy. B. goes to the office, examines the register, and sees what agreements, mortgages, &c., &c., are in force affecting Whiteacre. He then goes and makes his bargain with A. A short agreement of sale is drawn up by their lawyers. It is taken to the Registration Office, and if, in the meantime, no other agreement has been entered on the pages of the register, it is signed, and an abstract or copy of it is entered in the registry book. The law compels this to be done, by declaring that the agreement which is first entered shall be in force prior to any other subsequently entered. So that if B. finds no mention of any other agreement of transfer mentioned in the book, he knows that he may with perfect safety pass over the purchase money and sign the

[1] For an account of the system of registration in Belgium see Letter XIII. p. 156.

agreement. The transfer of the land is thus effected by the paper or parchment agreement.

The entry in the public register is only to preserve public evidence for any future purchaser or mortgagee of the exact state of the documents which affect the property at any given moment. As soon as the terms of the transfer are agreed on between buyer and seller, the buyer is only too eager to register, lest any other transfer or agreement should get precedence of, or prior effect to, his own; and in some countries the law renders the transfer or agreement invalid until it has been registered.

Thus in Scotland, where they appear to have a very efficient and cheap system of land registration, the law requires all writings affecting land to be registered under the penalty of invalidity.

The reason why all schemes for a system of registration in England and Wales have hitherto failed, is that the various Acts on the subject have not made registration compulsory, either by rendering a deed or document affecting land invalid, if not registered, or if not registered before some other subsequent deed or document is registered.

The most radical measure of registration that has ever been proposed by any man, whether layman or lawyer, in this country, was the scheme of compulsory registration, prepared and brought in by Lord Selborne, the Liberal Lord Chancellor, but it was defeated, like all other really genuine attempts in the same direction, by the great land-owners and their solicitors.

But it must be borne in mind that, while a system of registration would somewhat lessen the expense of the *search* for titles, its effects would be very slow, so long as the settlements and wills were allowed to have such effect on the land as at present.[1] Conveyances and wills would continue just as lengthy as at present. Many years would elapse before even the expense caused by the examination of titles would be lessened, and the utmost which could

[1] See also Letter XIII. p. 156.

ever be effected by such a system would do but little towards lessening the expense of conveyances, though it would make titles *safer* than at present.

Now, in Germany, Holland, Switzerland, Lombardy, the Tyrol, Denmark, Norway, Belgium, France, and in a great part of Italy and America, the law does not allow the proprietor of land a power of preventing his property from being sold after his own death. In all these countries the old feudal system of primogeniture, entails, long settlements, and intricate devises of land, invented in order to keep great estates together, to preserve the great power of the feudal aristocracy, and to prevent the lands getting into the hands of the shopkeeping and peasant classes, have been, since the first French Revolution, swept away.

The conveyance of the land, in these countries, from man to man, is very simple and very cheap. Two causes contribute to produce this result.

1. The deeds of transfer are very short and simple.

No man can subject his estate to the long settlements and singular arrangements, to which an English proprietor can subject his land: he can only affect his land during *his own lifetime.* The consequence is, that it is not necessary to make provision in the deeds for so many contingencies, nor for so many changes in the property, nor for such long future arrangements as in England. The foreign deed does not generally do more than convey away simply and briefly the whole of the seller's interest, and does not, as is the case generally in England, convey some limited interest in the land, and then make arrangements how the rest of the interest in the land is to pass from hand to hand for the next 50 or 80 years, and for all the contingencies which may arise during that time.

2. There is no need to expend any money in examining the title of land in the foreign countries I have mentioned.

In most of these countries there are, in each of the provinces, registration courts, where all the changes in the right to, or ownership of, every parcel of land in the province

is entered in a book under the name or description of the land. No mortgage, lease, conveyance, or writing affecting land is allowed, by the laws of these countries, to have any validity, unless it is entered in the books of the registration office of the province in which the land is situated; so that a purchaser knows that he can always easily, without any expense, and in a few minutes, discover what the state of the title of the land he thinks of buying is; and he knows that no mortgage or other encumbrance, which is not copied in the registry book under the description of the piece of land which he thinks of purchasing, can turn up afterwards and affect his land, since the law, as I have said before, does not allow any validity whatsoever to any writing affecting the land, which is not registered in its proper place in the registry books of the province in which the land is situated.

LETTER VIII.

IMPRESSIONS PRODUCED BY FOREIGN TRAVEL:
1844–50.

June 15, 1878.

I HAVE now, in No. I., shown how the present English Land Laws have accumulated most of the land of Great Britain and Ireland in a few hands, and also the vast extent of some of those estates.

In No. III. I endeavoured to explain, in a popular way, the laws which have brought about the extraordinary and highly inexpedient condition of things described in No. I.

In Nos. IV., V., and VI., I endeavoured to show some of the more serious direct and indirect consequences of these English Land Laws.

I now propose to try to explain, as clearly as I can, the way in which the land is divided among all classes of the people in foreign countries, the remarkable consequences of such division, and the causes which have led, and are still conducing, to such division.

But before I enter on these subjects, I must, at the risk of being deemed somewhat egotistical, explain to my readers how it happens that I have any right to express any opinion whatever upon questions of so much difficulty.

In 1844, I was appointed by the Senate of the University of Cambridge, on the recommendation of Dr. Whewell, the then Master of Trinity College, the "Travelling Bachelor of the University." This office required me to travel, during each of three years, in foreign countries, to investigate some subjects or institutions of public interest. I was appointed

to examine the state of the education of the working classes in Western Europe, and to report upon such state to the University. At that time my brother, Sir James Kay-Shuttleworth, had just established, in company with Mr. Tufnell, the first pauper industrial school, at Norwood, and the first institution we ever possessed for the education of teachers, at Battersea, and I had been a good deal associated with him in the management of the latter institution. The great question of national education was just beginning to attract public attention as one of the great problems of the future, which we had to solve somehow or other.

At this time, I knew nothing either of our own Land Laws or of those of foreign countries, and I consequently felt no interest whatever in questions connected with them.

I left England on my appointed duties, furnished with introductions from our Government and from the German Ambassador, Chevalier Bunsen, to all the governments and other authorities and heads of institutions who could aid me in my proposed inquiries. I went first to Switzerland, partly because in that country were to be found some of the greatest leaders of the educational movement which had been for many years spreading through Western Europe, and partly because I knew that some of the cantons were, even at that time, making the greatest efforts to perfect the schools for the children of all classes of their people. I visited first the rich agricultural cantons of Neuchâtel, Berne, Vaud, Argovie, Zurich, Geneva, and Thurgovie.

As I travelled through these prosperous districts, from school to school, I was more and more struck by the prosperous appearance of the farms, by the high farming, the substantial comfort, size, and excellence of the farm buildings, the numbers, beauty, and fine condition of the cattle, the extraordinary richness of the pastures, and the evident care that I observed on every hand not to waste anything, either land in wasteful fences or in undrained plots, or any portions of the manures from the farms and

homesteads, or anything that could by any means conduce to increase the produce of the farms. I was astonished also to see how much care and expense were bestowed on the embellishment of the exterior of the houses, as if the inmates were really interested in them. I noticed, also, that although the everyday working dresses of the men and women were of very coarse, substantial, and often home-made materials, I seldom, if ever, saw rags even on the working days, while on the Sundays men and women always appeared in comfortable, substantial, unpatched clothes, and often, if not generally, in their national costume, or at least with some part of their picturesque cantonal ornaments. But what surprised me as much as if not more than anything was, that as I drove along the public roads for miles, even near the towns, the roads were bordered by rows of magnificent fruit trees of various kinds. These trees had no protection against theft. There were no hedges or palings. They were all open to any passenger along the roads. Any one could have plucked the fine fruit. I have often seen in the autumn the overladen boughs supported by long poles, forked at one end, and even then nearly breaking under their burden. I have seen the ground beneath covered with ripe and fallen fruit, but no one touching or interfering either with trees or fruit. I have seen hundreds of miles of such roadside orchards in Switzerland, Germany, and Italy, and have constantly looked with astonishment at the wonderful respect for property which all this evinced.

After some time spent in examining the primary schools throughout Switzerland, I went to the Lake of Constance, to visit and inspect the celebrated Training College for Teachers, which was then presided over by the celebrated Vehrli, at that time one of the most distinguished promoters of the education of the working classes in Europe. It will be seen directly why I refer to this college.

It was situated about a mile from the old city of Constance, close to the shore of the vast and beautiful

lake, and upon a rising ground, which slants gradually upwards from the water. It is an ancient turreted house, and was formerly the palace of the abbot of the vast convent situated about half a mile distant, and which was, at the time of my visit, still occupied by monks. The college commanded magnificent views. Close below it, spreading out 70 miles in length and 20 miles in breadth, lies the Lake of Constance. To the left rose the ancient time-honoured towers of the Council and martyr-famed city. Far to the right rise the lofty snow-clad peaks of the mountains of Appenzell.

This commodious and splendidly-situated building had, some years before my visit in 1844, been set apart by the Republican Government of the canton as the college for the education of teachers for the village schools of this agricultural canton. The Government had also allotted to it orchards and a large farm, which was entirely managed by the students, who learned there, under skilful teachers, scientific farming.

The education given to the students was such as fitted them to become the teachers of the young children of any class of society. They all were taught, besides the ordinary subjects, mathematics, practical science, music, and drawing. And they were only received into the college after having passed a severe entrance examination. The first time I went there Vehrli was in the fields, superintending the farm labour of the students. One of them offered to go for the director, and begged me to walk through the college and examine anything I desired. I found all the furniture of the plainest. The bed linen was coarse—the chairs and tables simple deal. But the books, the mathematical diagrams on the black boards, the drawings of the students, the musical instruments and music books, showed what a contrast the education bore to the daily life.

Vehrli came dressed in a farmer's tweed coat, an old weather-beaten hat, and thick farming shoes, with hands

and skin like a farmer's, but his eye and features told of the intellect and intelligence of the man.

He explained to me, in this and subsequent visits, that his students were intended for rural schools, to live among the farmers, who owned and worked their own farms; that they would have to associate with the peasant farmers and their families, and to teach their children; that it was most important for them to be able to understand the farmers' work, to talk with them, to advise them, and to disseminate a better knowledge of scientific farming and gardening; that in this way, too, they gained the respect, esteem, and support of the parents; that they, being accustomed to these simple country pursuits, did not become discontented in their simple rural homes; but, on the contrary, found their work and life at the rural schools easier and more comfortable than their simple life in the college.

I began then to realise the fact that the Swiss peasant and yeomen farmers were actually owners of the land they farmed. It was they who paid for the high and careful training being given to the students in Vehrli's college.

I went with him into the fields, and found the students there, clad just like peasants, and engaged in all kinds of farm work. When they returned to the college they deposited their farm clothes and clogs in places provided, and put on their simple students' dresses.

After seeing much of this most remarkable and interesting institution, in which the students remain two years, I went with Vehrli to see a large agricultural school in the neighbourhood. This was supported by the peasant and yeomen farmers of the canton, and not by the Government. To it were sent the sons of farmers who wished their sons to acquire a fair knowledge of agricultural chemistry, the treatment of soils, the management of manures, the management of cattle, &c. There I found a building well supplied with all the scientific materials and apparatus necessary, very intelligent professors, and a large class of students, earnestly pursuing their studies and work. Vehrli again

explained to me that this was maintained, in order to enable the sons of the small farmers to improve to the utmost their modes of farming and the capabilities of their land.

I was extremely surprised, and began to ask myself, Do our leasehold farmers act in this way? Is it true that actual ownership is such a wonderful stimulant to self-improvement, self-denial, and exertion? Is it true that it is not the schools alone to which must be attributed the prosperous and independent condition of the peasantry?

I began, in short, earnestly to study not only the education question, but the almost equally grave one of "free trade in land." The more I travelled through the educated agricultural cantons of Switzerland, the more I was interested and astonished at the beneficial influences of *ownership* upon the yeomen farmers and the peasants. They laboured and struggled for themselves—the full results of all the labour, self-denial, and intelligence they exercised were their own. They worked for no landlord. They shared none of their winnings from their lands with any master. The more I saw, the more I was impressed with the moral and social effects of the release of the land from the feudal laws, and I began to ask myself—Would not similar results follow a similar release in England?

I returned to England, and began the earnest study of our Land Laws. I then returned to the Continent, and travelled through the principal countries of Germany. Throughout these countries I found that the feudal laws had been done away, and that the educated yeomen farmers and peasants were cultivating their own lands. Everywhere I found the good effects of these great reforms manifested in the moral well-being of the yeomen farmers and peasants, in the healthy self-help they manifested, in their hopeful looks, in the good and substantial appearance of their villages and houses, in the economical and careful management of their fields.

But one of the most remarkable proofs of the vast blessings conferred upon the people by the united effects of

education and "free trade in land" was offered by the condition of Saxony, as compared to the neighbouring country of Bohemia. These two countries lie side by side. A great part of the people of these countries speak the same language, profess the same religion, and belong to the same race, but the condition of the peasants of these two countries at the period of my visit was as different as could well be imagined.

In Saxony the people had for years been educated by admirably trained teachers, from their fifth to their fifteenth year. In Bohemia the instruction then given was much inferior in all respects, and, such as it was, it was more in those days directed to the object of making them good subjects of the absolute Government at Vienna, than of making them intelligent and thoughtful men, as in Saxony.

In Saxony the feudal laws had, as in almost all the rest of Germany, been abolished. The land belonged for the most part to the yeomen farmers and peasants who cultivated it. In Bohemia the land was divided amongst great nobles, who left their estates in the hands of agents, and who carried off their rents, as most of the Irish landlords do, and spent them in the distant capital of Vienna.

Now, what was the comparative condition of the peasantry of these two rich countries lying side by side? In Saxony there was very little pauperism; the peasants were well and comfortably clad; ragged clothes were scarcely ever to be seen; beggars were hardly ever met; the houses of the peasants were remarkably large, high, roomy, convenient, substantially built, constantly whitewashed, and orderly in appearance; the children were clean, comfortably clad, and respectful and intelligent in manners; there was little apparent difference between the young children of the different classes; these children were taught in the same schools and by the same teachers until they were twelve years of age, as is the case throughout a great part of Germany and Switzerland; the land was most carefully cultivated, as well as in any part of Europe, and the general

condition of the peasantry was more prosperous and happy-looking than that of any other country I had seen, except, perhaps, the peasantry of the Swiss cantons, Berne, Vaud, and Neuchâtel, or that of the Rhine provinces of Prussia.

In Bohemia, just across the frontier, on the other hand, a totally different spectacle presented itself, and one which could not fail to strike any observant traveller with astonishment. As soon as I crossed the Saxon frontier, from the land of "free trade in land" and education, into Bohemia, the land of great estates, feudal Land Laws, and defective education, I found myself surrounded by beggars of the most miserable appearance, like our "tramps;" the peasants were poorly dressed, were often in ragged clothes, and were constantly, if not ordinarily, without shoes or stockings. The cottages were small and wretched. The villages were generally only collections of the most miserable wooden cabins of one storey in height, and were crowded together as much as possible. The land was only half cultivated, wanted that appearance of care, neatness, and economy of every available portion which is the invariable sign and consequence of free trade in land.

I travelled through one part of Bohemia with a Saxon. He pointed out the beggars to me, and said with pride, "You will not see such sights in my country. Our peasants are owners of their own little estates, and have been steadily improving in their social condition ever since we repealed our feudal and entail laws, and did away with any impediment to the sale and transfer of land, and since we began to educate the children as we now educate them. Our people are well educated. They have got libraries in their villages. They are contented, because they are intelligent and know that their success in life is untrammelled by unjust laws, but depends on their own unfettered exertions, and that there is nothing to prevent their succeeding if they are only prudent. But these poor Bohemians have no

strong stimulus to be prudent or industrious. They have no interest in the soil. They are little better than the serfs of the great lords at Vienna."

I travelled through another part of Bohemia with a very intelligent Prussian landlord, with whom I had a great deal of conversation. He said to me, "What a strange spectacle it is to see this fine country so badly cultivated and the peasants so poorly housed. Look, too, what great tracts are left entirely uncultivated. You do not see anything like this in those parts of Prussia where the peasants are educated proprietors. There they are prosperous and the land is beautifully cultivated. Here a great part of the land is waste, while the peasants are the miserable dependents of great landlords, who spend their rents at a distance from their estates. If Bohemia were only cultivated like Prussia, it would be one of the richest countries in the world. But it never can be properly cultivated under the present system."

How all this made me think, not only of England, but still more of unhappy Ireland!

I need not say that, after such an experience and such a lesson as this, all belief in English and Irish and Scotch Land Laws passed away from me for ever. I saw, more clearly than I had ever done, what education and freedom were capable of effecting in all classes, in all nations, and in all departments of human industry. I had been the agent of the Anti-corn-law League while I was a student at Cambridge. I became henceforward the earnest advocate of free trade in land. What may be the state of Bohemia now, since the introduction of Liberal reforms in the Austrian Empire, I know not, but I know I have given a faithful picture of things as they were in the years 1845–48.

Since those years I have lived much among the yeomen and peasant proprietors of Switzerland and Germany, and the more I have seen the more earnestly I have become

convinced of the truth of the conclusions to which I was forced in the years 1844–50.

But it must be borne in mind that I speak of what has been accomplished by the repeal of the feudal laws in countries in which education has progressed hand in hand with the other great social changes. In those parts of Germany and Switzerland, where the struggles of the religious parties or other difficulties hindered or prevented the progress of education for many years after free trade in land had been introduced, the condition of the yeomen and peasant farmers was most clearly far behind the condition of the same classes in those provinces, in which education had progressed hand in hand with the other great reforms.

In 1844–50, when very little comparatively had been done for education in the cantons of Friburg and Lucerne, and the other lake cantons and the Valais, the condition of the yeomen and peasant farmers, although they had enjoyed free trade in land as long as the other cantons of which I have spoken, was far inferior. The most cursory glance was sufficient to satisfy the traveller of this, as he looked at the villages, the orchards, or the fields.

So, too, in France at the present day. There they have had free trade in land as long as any nation, but the yeomen and peasant farmers have hitherto had nothing deserving the name of education. Their ignorance is appalling. It is limited to the experience of their own immediate neighbours. They know nothing of the world, even at a distance of 100 miles from their doors. Science is a sealed book to them; agricultural schools and teachers, such as those of Germany and Switzerland, are utterly unknown. Their almost inconceivable ignorance is most strikingly described in Mr. Hamerton's able and interesting book, "Round my House," published as lately as 1876 by a gentleman who has lived for years among the French peasantry, and who probably knows as much, if not more, of their present condition than any other living Englishman.

He says (p. 228), "The ignorance of the French peasantry is difficult to believe when you do not know them, and still more difficult when you know them well, because their intelligence and tact seem incompatible with ignorance. . . . They are at the same time full of intelligence and inconceivably ignorant. . . . His ignorance is incredible. He really does not know what the word 'France' means. . . . Fancy the condition of a mind which has *no* geographical knowledge! I knew an old peasant, who sometimes asked me where places were, and his way was this: He would ask me to point in the direction of the place, and when two places happened to lie in the same direction, it was almost impossible to make him understand that they were not on the same spot." Mr. Hamerton lived in a part of France so near Switzerland that the tops of the Alps were sometimes visible from the summits of the hills in his neighbourhood. But he says (p. 231), "The greater part of the peasantry here have never heard of Switzerland." They adopt the experience and maxims of their predecessors. That is their whole science of farming.

Is it wonderful, then, that France, with only free trade in land, should be half a century behind the countries of Switzerland and Germany, which have had now for so many years the vast combined advantages of free trade in land and education, and, in many parts, of a thoroughly good agricultural training also?

But even in France, how wonderful have been the results of free trade in land, even without education, spite of the dread prophecies that have been uttered since 1830 as to what would be the certain results of the great subdivision of land in that country! Year by year, evidence which cannot be gainsaid accumulates upon us, showing the remarkable progress among the small French proprietors and the gradual increase of their comfort, savings, capital, and intelligence. Let the Republic only last and accom-

plish what it has pledged itself to perform—viz., to give a thoroughly good education to every child from its fifth to its fifteenth year, as in Switzerland and Germany, and the prosperity of the yeomen and peasant proprietors of France will soon rival, if not surpass, the prosperity of their German rivals.

LETTER IX.

ON FRANCE.

August 6, 1878.

I CANNOT too often or too strongly remind those of the public who are interested in the subject of these letters—and, as they are now being regularly republished in various journals both in England and Ireland, I suppose there are many who are so interested—that the first argument brought forward against any one who is in favour of "free trade in land," and consequent subdivision of the great estates, is almost invariably the exclamation, "Look at the state of France."

A short time ago, a very able man, well known in the political world, called on us and entered into a discussion upon the Land Laws. He knew very little of the subject. He had not studied it at all. But his good strong sense had made him revolt against the system of English laws which divided the vast bulk of the land of Great Britain and Ireland among a few owners, while it deprived peasants, small farmers, most of the large farmers, and the tradesmen of the towns of any share, or of anything but a very small share, in the most valuable and most coveted of all property.

Our friend inveighed bitterly against the state of things in one of the counties where he had been visiting, describing in vivid language the enormous possessions, households, wealth, and luxury of the great landowning aristocracy, and describing no less powerfully the poverty and hopelessness of the peasantry, and the utter impossibility of either

the peasantry or the small farmers obtaining land. He said that he had not concealed from his relations the impression which this strange and sad contrast had made on his mind, upon his return to England after a long absence of many years. But the moment we began to discuss the remedy, then his mind seemed to be filled with a dread of the French system, and he began to inveigh against the impossibility of such a system working well, or producing anything but ruin.

Now, I have never been an advocate for the French system, which divides nearly all the land which a man possesses at his death among his children, and of this I shall have more to say hereafter.

But what I want to impress strongly on my readers is that it is simply ridiculous to declaim in this ignorant way against the French system. I will prove by abundance of evidence that even this extreme system is producing an ever-increasing prosperity even in France, where as yet the peasants and small farmers are almost wholly uneducated. But independently of all this, and putting this evidence aside, these cavillers are ignorant of the fact that some of the most richly cultivated countries in Europe, such as the prosperous agricultural cantons of Switzerland, the splendidly cultivated Rhine provinces of Prussia, other provinces of Germany, and the rich provinces of Holland and Belgium, have the same Land Laws as France, are subject to the same system of subdivision on an owner's death, are cultivated by small yeomen farmers and peasant proprietors; but that the vast difference, the great fact which makes their land-owning classes so much more prosperous even than those of France, is that their farmers and peasants are well-educated, intelligent men, while the French small farmers and peasant proprietors are, owing to the selfishness and fear of former arbitrary rulers, sunk in a condition of ignorance which must be seen and studied to be believed.

As I have over and over again said, I am thoroughly opposed to the French system of Land Laws. It has always seemed to me that it errs as much in one direction as our

laws do in the other. Our laws seek to prevent subdivision, whether it is expedient or not; the French system seeks to force subdivision, whether it is expedient or not.

But I believe that our system is infinitely more prejudicial to the yeomen and peasant classes than the French system, and that I will presently show.

My belief is that the principle of the "Edict for the Better Cultivation of the Land," which was promulgated in Prussia in 1811, and mainly brought about the free trade in land now existing in that country, is the right principle. The Edict allows the owner to give, sell, or devise his land, or any part of it, to any one he pleases, but it does not allow him to tie it up by any instrument, so as to prevent its being sold after his death. The land is always saleable; it is always changing hands. Some estates subdivide, some increase in size; and the consequence is that, while there are a considerable number of large estates, there are vast numbers of yeomen farmers, peasants, and market gardeners who own and cultivate their own land. If an owner cannot make his farming pay, or finds a more prosperous career open to him, or becomes bankrupt, or for any other reason wishes to enter into some other business, he sells to some one who has capital and enterprise and knowledge enough to make the land a profitable investment. The land is never tied up in the hands of men who have neither the capital nor the industry to cultivate it properly.[1]

It is a system of this kind, and not the French or the English system, that I am in favour of. But, inasmuch as I am convinced that the French system of excessive subdivision is better for the yeomen farmers and the peasants than ours, and inasmuch as this system is constantly put forward as the bugbear and stumbling-block of those who would reform our Land Laws, I propose, first of all, and before describing what has been accomplished in Germany by real free trade in land, to explain—first, what the French system actually is; and, secondly, what this system has accomplished for the French

[1] See note at the end of this letter.

yeomen farmers and peasants, even in spite of their extraordinary ignorance and want of education. First, then, what is this French system of Land Laws which is now in force in France, in the Rhine provinces, in the largest and richest of the Swiss cantons, in Holland, in Belgium, and in a great part of Italy?

The French law is this: the Article 745 of the Code Napoleon provides for the equal division of property among all the children, without distinction of sex. In default of children, the succession reverts to brothers, sisters, and their children; and, in default of these, to other relations in the order pointed out by the code.

Provisions are made by Article 756 for natural children. and by Article 767 for the wife.

A landowner is not obliged to leave the *whole* of his estate to be thus divided equally, if he desires otherwise. The French law permits him, if he so wishes, to bequeath by his will, to whomsoever he may nominate, *one-fourth* of his land if he has *three* children, *one-third* if he has *two* children, and *one-half* if he has only *one* child. Or, in other words, to quote Mr. Cliffe Leslie's article in "Systems of Land Tenure in various Countries:" "The French law of succession limits the parental powers of testamentary disposition over property to a part equal to one child's share, and divides the remainder among the children equally."

Land cannot, under the French law, be tied up and made unsaleable after the owner's death. The next successors to it may sell it to whomsoever they please.

No marriage settlements like those which our law allows, and which often keep an estate out of the market, and make it impossible to sell any portion of it, however expedient it may be to do so, are permitted by the French law; but the law protects the wife's marriage portion, whether such portion consists of land or money, as long as her husband lives, by stringent provisions, and after his death it becomes her own absolutely.

Secondly, let us shortly consider what effect this law has

had upon the division of the land in France, and upon the size of the estates. In considering this question, it must be remembered that, before the great French Revolution of 1789, there were a great number of small yeomen and peasant proprietors in France over the whole face of the country.

Owing to the exactions of the nobles, and to the right which the nobles had to force the peasants to do various kinds of work upon the great estates, without any reward, and at times when their labour and carts and horses were wanted on their own land, and to the right which the law gave the nobles in many cases to force the peasants to contribute to their wealth and extravagance, the yeomen and peasant proprietors of those days were in a condition, as Arthur Young has shown us, which was sufficient to make any one despair of any real amelioration of their state without some great change of the whole structure of society.

The great Revolution came. The feudal system was destroyed. The oppressive rights of the nobles were swept away for ever, and the present system of Land Laws was established. What has been the effect?

The land in France is now chiefly occupied by small proprietors. According to the best and most recent calculations that have been made by M. de Lavergne in his "Economie Rurale de la France" (last edition), there are now 50,000 proprietors, each possessing an average of 300 hectares, 500,000 with an average of 30, and 5,000,000 with an average of 3. A hectare of land is nearly equal to two acres and a half. Putting, therefore, the French measurements into nearly equivalent English values, it appears, according to M. de Lavergne, that 50,000 proprietors possess each an average of 750 acres; 500,000, an average of 75 acres; 5,000,000, of 7½ acres.

Turning to the reports of Her Majesty's Representatives respecting the tenure of land in the several countries of Europe, published as lately as 1869, we find that Mr. West, reporting upon the tenure of land in France, says that landed property is thus divided, properties averaging 600

acres, 50,000; properties averaging 60 acres, 2,500,000; properties averaging 6 acres, 5,000,000. M. de Lavergne is, however, the best and safest authority upon this subject. He is a Membre de l'Institut, and has devoted many years to the most careful examination of all questions connected with the rural economy of France; and the fourth edition of his celebrated work on this subject has only recently appeared.

But even his estimate is only an approximation to the truth. It seems very probable that among the number of the smaller proprietors many have been reckoned several times, owing to their having plots in different communes. And besides this, another fact must be borne in mind—viz., that a great portion of the land of France is devoted to the culture of the vine, for which very small properties and manual labour are peculiarly appropriate. In these districts the average size of the small properties is much less than in the agricultural districts.

But still another and much more important fact to be considered is, that according to the testimony of all the best-informed writers upon this subject, and especially of Mr. Thornton in his "Plea for Peasant Proprietors"—an admirable essay on this subject, which received the special praise and approval of our great political economist, Mr. Mill, and which has now reached a second edition—that a considerable number of the small properties which are grouped under the grand total of 5,000,000 are small plots, many of them only small kitchen or market gardens, and many others only a field for a cow or a beast of burden. The owners of all these latter small portions of course do not earn their livelihood by the cultivation of these small plots only. They labour, as our peasants do, on the properties of the larger landowners for weekly wages, and Mr. Inglis, in his "Switzerland and the South of France," vol. ii. page 269, says, "I am inclined to assert that, upon the whole, the French peasantry are the happiest of any country in Europe." And Mr. Thornton in his "Plea," &c., quot-

ing from Inglis, says, "While passing through Languedoc, Inglis particularly remarked the 'very enviable situation' of the labouring class." The people appeared to be well off, and paupers were rare.

Now, deducting the proprietors who are twice reckoned, the vast numbers of owners of small vineyards, and the undoubtedly great number of labourers who really earn their livelihood by working on the larger estates, and have only a garden or a field to eke out the comforts of their family, from the 5,000,000 small owners, the great probability is that the average size of the estates of the actual yeomen and peasant farmers of France is considerably above the alleged average of $7\frac{1}{2}$ acres. But even if it were not so, it seems strange to me to affirm that the owner of a farm no larger than $7\frac{1}{2}$ acres would not, by means of the industry, economy, and self-denial which are almost always characteristic of a small owner, be able to earn a comfortable maintenance for himself and family, and one far superior to any which our rural peasants are able to enjoy. Whatever theorists may say, these small owners do prosper, and are so contented with their lot, and that lot is so envied by those who do not possess land, that on the death or removal of an owner his estate finds many bidders in the market, and the price of land in France is found to rise and not to fall.

Thirdly, I will now try to show that, spite of the want of any efficient system of education in France, spite of the dense ignorance of the French peasantry, spite of the want of agricultural schools such as exist in Germany and Switzerland, the division of land in France caused by their system of Land Laws is promoting the contentment, happiness, and prosperity of the yeomen and peasant farming classes of France.

The first fact which strikes one in considering this part of our subject, and which seems to me to prove incontestably the happy working of the French Land Laws even in France, and the perfect satisfaction of both larger and

smaller owners with them, is this—that no matter what the system of government in France, whether limited monarchy, Imperial despotism, or republic, no Government has ventured to propose any change whatever of these laws, or to abolish or limit the system of compulsory subdivision. The just weight of this remark will be understood if it is considered how rejoiced the Government of Louis Philippe or of Louis Napoleon would have been to have created a great territorial aristocracy, as a support for their systems of government, if it had been possible for them to have dared to propose such a scheme to the Chamber. And this is all the more striking when it is remembered by what a very small number of middle-class, well-to-do electors the Chamber of Representatives was elected during Louis Philippe's reign. But throughout his sham of constitutional government, throughout the despotism of Louis Napoleon, throughout the struggles of the reactionary parties, the one system of laws in France which has remained unassailed and truly unassailable has been their system of Land Laws, so strongly are they now rooted in the cordial satisfaction, contentment, and well-being of the French rural classes.

But another equally remarkable fact, which shows, independently of statistics, how these laws are promoting the economy, prudence, thrifty habits, and well-being of the French rural classes, notwithstanding their ignorance, is the wonderful way in which these classes have come forward and taken up a large part of the great loans of the Empire, and of the immense sums raised by M. Thiers' Government to pay the frightful burdens of the war—burdens which all Europe thought would have crushed France for a long space of time. But the sums to meet these terrible demands were found to a very great extent by the small agricultural owners themselves, and the world was astounded by ascertaining that, although in 1823 Mr. M'Culloch had prophesied that in "half a century it (France) would certainly be the greatest pauper warren in Europe, and, along with Ireland, have the honour of furnishing hewers of wood and drawers of

water for all other countries in the world," in 1872 this same France, Mr. M'Culloch's "pauper warren," was paying off with apparently the greatest ease one of the heaviest, if not the heaviest, fine that had ever been laid upon the shoulders of any nation in the world, and that the rural classes were to a very great extent, if not mainly, finding the funds by which this most extraordinary feat was accomplished; and what is equally, if not more, remarkable is that these same classes, who by this time were to have formed such a "pauper warren," are supporting with enthusiasm a Government which has been forced to raise the scale of taxation on many, if not most, of the articles of their daily life.

NOTE.—The "Edict for the Better Cultivation of the Land," referred to by Mr. Kay in this letter, formed part of the legislation known as that of Stein and Hardenburg; and the following are the passages of this Edict which he had before him when writing the letter:—"The proprietor shall henceforth (excepting always where the rights of third parties are concerned) be at liberty to increase his estate, or diminish it, by buying or selling, as may seem good to him. He can leave the appurtenances thereof (the 'Grundstücke,' or parcels distributed in the three fields) to one heir or to many as he pleases. He may exchange them or give them away, or dispose of them in any and every legal way, without requiring any authorisation for such changes.

"This unlimited right of disposal has great and manifold advantages. It affords the safest and best means for preserving the proprietor from debt, and for keeping alive in him a lasting and lively interest in the improvement of his estate, and it raises the general standard of cultivation.

"The interest in the estate is kept alive by the freedom left to parents to divide their estate amongst their children as they think fit, knowing that the benefit of every improvement will be reaped by them."

Mr. Kay intended to explain in his subsequent letters on the Land Laws of Germany the limitations of devise actually imposed by the law of Prussia in favour of natural heirs, and the rare exceptions due to *Fidei commissa* and *Majorats*. He did not, however, consider these limitations and exceptions of such importance and extent as to interfere with the principle of free trade in land, which he has mentioned in several of his letters, as existing in the greater part of Germany, but he did not live to explain his views on this point. The Editor refers readers who are desirous of following out this subject to two authorities

which Mr. Kay had carefully studied:—The essay on "The Agrarian Legislation of Prussia during the Present Century," by R. B. D. Morier, C.B., in the volume entitled "Systems of Land Tenure," published by the Cobden Club; and the "Reports from Her Majesty's Representatives respecting the Tenure of Land in the several countries of Europe, 1869"—in particular to the Report of Mr. Harriss-Gastrell on Prussia, and that of Mr. Morier on Hesse-Darmstadt.

LETTER X.

WITNESSES TO THE EFFECTS OF THE FRENCH LAND LAWS.

August 16, 1878.

In my last letter I tried to show how the French system of Land Laws, which divides a great part of a father's estate upon his death among his children, has operated in France, notwithstanding the ignorance of the peasantry. I stated that I thought that the system of *forced* subdivision was wrong; but I wished to show that even this system, with all its faults, promotes the prosperity, moral well-being, and happiness of the yeomen farmers and peasants better than our system of huge estates and long settlements. I said that I did this because the instance of France was always being brought forward, by ignorant opponents of free trade in land, as if it were an unanswerable argument against any reform of our feudal Land Laws, and as if no other system were possible. I reminded your readers that many of the best and most richly cultivated parts of Europe were cultivated under the French system of laws. I now propose to show what the highest and ablest authorities say of the effects of the French Land Laws in France, notwithstanding the great drawback of the want of education.

And first, let me cite some sentences from an extremely able and interesting letter on this subject, written by our great economist, Mr. Cobden, and published by his great ally, Mr. Bright, in the "Times," on the 7th January, 1873. Mr. Cobden says, "Nobody has, I believe, proposed that

we should adopt in England the French law of succession, but it pleases those who are the advocates of the Land Laws of this country to bring forward the peasant proprietor of France as a sort of 'Old Bogy' to frighten us into the love of our own feudal system. This compels those who desire any amelioration of the present system to meet them on their own ground. . . . Two questions are presented to us in connection with this subject. What are the moral and what are the economical effects produced by the division of the land of a country among its whole people? In France, Switzerland, Norway, Germany, Belgium, the Channel Islands, and in the United States, the land is, as a rule, the property of those who cultivate it. The same state of things prevails more or less, or is being rapidly developed, in Italy, Spain, Russia, Hungary, and other countries. England is the only great country where feudalism still rules the destinies of the land, and where the owners of the soil are constantly diminishing in number. . . . Now, looking at the moral aspect of the question alone, no one will deny the advantages which the possession of landed property must confer upon a man, or a body of men—that it imparts a higher sense of independence and security, greater self-respect, and supplies stronger motives for industry, frugality, and forethought than any other kind of property. The question really is between owning land or possessing nothing; for in proclaiming that the whole class of agricultural labourers must for ever abandon the hope or ambition of becoming landowners, they are virtually told that they can never emerge from the condition of weekly labourers; for the tillers of the earth can, as a class, rise to wealth only by sharing in the possession of the soil."

Mr. Cobden then proceeds to show that these remarks apply to more than 1,000,000 farm labourers and their families in England and Wales alone, and he might also have added that they apply with nearly equal force to the dependent class of small farmers without leases, without

any security for their outlay, and without the stimulus to industry and self-denial which ownership almost invariably supplies.

Think what an incentive to saving, to frugality, to temperance, to self-denial, it must be to the French peasant to feel that, if he will only work, save, and defer his marriage, he may hope to buy at least a kitchen garden, or a field, or an orchard, whereby to eke out the maintenance of his family!

Mr. Cobden continues, "Upon the *moral* aspect of the question, there cannot be two opinions, and therefore it does not admit of controversy. On the Continent, the verdict on this view of the question is unanimously in favour of small landed properties; and unless we in England are insincere in the arguments we address to the working classes to induce them to become depositors in savings banks, or to enter the ranks of distributors and producers by means of 'co-operation,' we shall also admit that to become a small freeholder would elevate the labouring man in the scale of society."

Mr. Cobden then goes on to state, what is certainly remarkably true, that the views in favour of the French system of Land Laws have been gaining ground in France during the last half century, until they have almost ceased to be a subject of controversy. And then he proceeds, "And surely, if any one circumstance be more calculated than another to impose a modest diffidence on even the most conservative of British critics, it is the high social and intellectual position of those Frenchmen who are the advocates of the system of peasant" (and he might have added of yeomen) "properties. This task is not left to the Red Republicans or to the ultra-Democrats. Men of exalted rank and birth, who might be excused for feeling some repugnance to a social organisation which has to a large extent been erected upon the ruins of their class—the descendants of those whose families were scattered or who perished on the scaffold during the Revolution—have been

among the most able and earnest champions of the present order of things. Thus M. de Tocqueville, writing in the confidence of private friendship, from the *château* in Normandy bearing his name, and surrounded by a body of peasant" (and yeomen) "proprietors, occupying the greater part of the ancestral domain of his family, yet speaks with hearty commendation of the changes. And the present state of things finds a defender in a venerable French nobleman, who is widely known and honoured in England for the purity of his character and his high intellectual endowments—the head of the ducal house of De Broglie" (an ancestor of the present advocate of *coups d'état* and electoral corruption). Mr. Cobden then forcibly points to the terrible causes which have during the last 70 years retarded the progress of French agriculture and made that progress so much less than it otherwise would have been —the millions of able-bodied labourers who have perished on the battle-fields; the ruinous invasions of the country by foreign armies; the sudden way in which the great Revolution threw the vast masses of lands which had belonged to the Church, the nobles, and the corporations, into the hands of an uneducated peasantry, who knew little or nothing of agriculture, and who had neither capital, nor manual labour, nor intelligence wherewith to cultivate their new possessions; and the enormous pecuniary exactions wrung from time to time by the foreign invaders from that wonderfully industrious, ingenious, and artistic people.

Let us remember that all these years our own country never saw the face of an invader.

"What wonder, then," asks Mr. Cobden, "if under such favourable circumstances England has outstripped her neighbour in the path of progress? Ought it not rather to excite our astonishment that in less than a century the peasantry of France could bear any comparison with our own in the enjoyment of the necessaries and comforts of life? Yet so great were the recuperative forces in the rural population of France—arising, as is main-

tained by her highest authorities, from the general diffusion of landed property—that in less than a quarter of a century after the peace of 1815, the English pedestrian, Inglis, was enabled to pen this declaration: 'With a tolerably intimate knowledge and distinct recollection of the lower orders in France, I assert that, upon the whole, the peasantry of France are the happiest peasantry of any country in Europe.' . . . The result of a general study of all the best authorities is to show that there is a unanimity of opinion in favour of the French system, on moral grounds, as tending to elevate the character, promote the intelligence, and stimulate the industry of the peasantry. There is scarcely less agreement on the economical view expressed by M. Passy, that small properties, 'after deducting the cost of production, yield, from a given surface and on equal conditions, the greatest net produce.' Those 'equal conditions' can of course only be found by comparing corresponding specimens of the two systems. The advocates of the *petite culture*, while admitting that the average production of England exceeds that of France, contend that in Flanders, 'the very birthplace of scientific farming,' on the Rhine, in Guernsey, Switzerland, the North of France, and other parts, farms of 15 or 20 acres may be found cultivated by their proprietors, which yield a greater net produce than the same extent of surface on the best farms in England or Scotland. M. de Lavergne says that the proprietors of 15 acres 'enjoy sometimes a real affluence.' This is more than the average size of the separate farming properties in Guernsey and Jersey, where the populations are renowned for their comparative prosperity and happiness. As a proof that this division of property promotes the accumulation of wealth, without tending to the deterioration of the soil, it may be stated that farming land is worth nearly twice as much when let or sold in Guernsey as in England. It is contended, moreover, that at the present moment the peasant" (and yeomen) "proprietors are making more rapid progress in improvement than the ordinary renting

farmer without a lease, owing to the greater stimulus imparted by what Arthur Young designated the 'magic of property.'"

So far our great free-trade leader and political economist; and to Mr. Cobden's remarks on this subject may be added this observation: Go where you will through France, or through any of the countries where either the French system or free trade in land is in force, you universally notice the wonderful way in which every square yard of land is made use of. Instead of the tens of thousands of acres which are occupied by wide hedges and ditches in Great Britain and Ireland, you scarcely ever see a hedge or ditch in foreign countries, but all these tens of thousands of acres are levelled and under rich cultivation, like the rest of the land. Instead of the sides of the roads being marked out as with us by ditches, briars, thorns, and useless trees for thousands of miles in many parts of these countries, where property is so deeply respected, the roads are like great avenues, marked out on each side by some of the finest fruit-trees in the world, the property of those on whose land they stand. Instead of the liquid manures of the homestead and farmyard being allowed to run to waste, as is almost universally the case with us, and is the case even in the rich county where I dwell, in those countries every portion of both liquid and solid manure both from the farmyard and homestead is preserved with the utmost care, and returned at stated times to all the different divisions of the farm. And lastly, instead of every spare hour of the working man or small farmer being spent in the alehouse, as is too commonly the case with us, in these countries every spare hour of the yeoman farmer, the peasant farmer, or the labourer who owns a mere garden, is spent on the land, which is his own, developing its fertility, tending its vegetables and fruits, and studying how to increase the value of its produce. In fact, the difference between the position and character of the hopeless, landless labourer in our islands, and the labourers who possess a little land, and

who know that it depends on the exertions of themselves and their families whether they shall possess more or not, is so different, that it is hopeless to expect that those who have not studied the subject should believe or in any way realise it.

Let us now turn to the evidence of another most important witness on the effects of these French Land Laws, which, ere this, were to have turned that fair, rich country into "the greatest pauper warren in Europe." M. Passy was a peer of France under Louis Philippe, and afterwards filled the important position of Minister of Finance. He was also a "Membre de l'Institut," a distinction testifying to his countrymen's high opinion of his merits. Thirty years after Mr. M'Culloch's prophecy, M. Passy published a well-considered second edition of his celebrated work on the "Systems of Cultivation in France and their Influence on Social Economy." He was also a considerable landed proprietor, and ranked as one of the most distinguished political economists in France.

As Mr. Cobden says in his able letter, "It would be difficult to find a person combining higher qualifications for his task, and the result of his investigations is a decided preference, on economical, social, and moral grounds, of the French system to that of this country. He shows, as indeed all the accredited French authorities show, that the evils of the subdivision of land, as it is practically carried out in France, are much exaggerated, and indeed caricatured, by its opponents; that the enforced division of the property of a deceased parent among his children does not necessarily involve the partition of the land; that arrangements are often made by which one of the family takes the estate, paying to the co-heirs a compensation in money, or the whole is sold, and the proceeds are divided, and thus, as the Government statistics prove, the separate landed properties of France are not increasing in number, in proportion to the increase of the population—in short, that experience shows, as common sense might have foreseen,

that as men do not cut up their cloth or leather to waste, so neither will they, as a rule, subdivide that which is far more precious—the land—into useless fragments."

M. Passy gives us the following deductions as the result of his investigations: "1. That in the present state of agricultural knowledge and practice it is the small farms (*la petite culture*)"—*i.e.*, small farms *owned* by the farmers—"which, after deducting the cost of production, yield, from a given surface and on equal conditions, the greatest net produce; and 2. That the same system of cultivation, by maintaining a larger rural population, not only thereby adds to the strength of a State, but affords a better market for those commodities, the production and exchange of which stimulate the prosperity of the manufacturing districts."

In stating the arguments in favour of the small yeomen and peasant proprietors, M. Passy says (see page 86, 2d edition): "They carry into the least details of their undertaking an attention and care which are productive of the most important advantages. There is not a corner of their land of which they do not know all the special qualities and capabilities, and to which they do not know how to give the peculiar treatment and care that it requires." He compares the English counties of York, Durham, Cumberland, Lincoln, Northumberland, and Lancaster with the departments of Pas-de-Calais, La Somme, l'Oise, La Seine Inférieure, and a part of l'Aisne and l'Eure and some cantons of Seine-et-Oise, and he states that the net produce of the yeomen and peasant farms of the parts of France which I have mentioned is greater than the net produce of the farms in the English counties I have mentioned.

And when comparing the relative merits of great and small farms worked by their owners, he says (see page 131): "As to the idea so often put forward that the great farms contribute more than the small ones to the happiness of the populations who cultivate them, it hardly merits attention. The only difference between the two systems is, that in the one there are few masters and many day labourers,

while in the other there are more masters and fewer day labourers." And writing in 1852, M. Passy says (see page 201): "No doubt there is no European country in which, during the last 30 years, industry, favoured by the long duration of peace, has not developed itself in various ways; but no country has so much as France extended, perfected, or diversified the forms of its productive activity. If all the other countries have seen riches accumulating, France has seen her wealth accumulating still more. And it is easy to comprehend that such progress could not have been accomplished if agriculture had not lent her aid by a better and more fruitful employment of her resources."

Another great French writer ought not to be forgotten or passed over in reference to this subject. I refer to M. Gustave de Beaumont. He is an author of European reputation, and widely known for his liberal and truly philosophic views on subjects connected with political economy. In 1835 and in 1837 he visited Ireland, for the purpose of examining minutely into the condition of the Irish people and the causes of that condition. He was there during the time when my wife's father, Thomas Drummond, was endeavouring to introduce his great measures of reform. It is needless to say that M. de Beaumont received all possible assistance in his researches. The result of his labours was that he published a work, entitled "L'Irlande Sociale, Politique, et Religieuse," the fifth edition of which now lies before me, which laid bare to the eye of the world all the festering sores of Ireland's condition as with the knife of an anatomist, and which made a great sensation, not only in our own country, but also in Europe and America. M. de Beaumont had, up to the time of his last visit in 1837, and afterwards up to the publication of his fifth edition in 1842, observed and become intimately acquainted with the working of the French system of Land Laws and with the effects of the subdivision of the land in France. And although at that time the beneficial effects of such subdivision were not nearly so manifest as they are now, yet, let me ask, what

was one of the chief remedies which he pronounced in his judgment to be essential for the regeneration of Ireland—that miserably misgoverned country? "He reported," as Mr. O'Hagan, Q.C., most truly says in his evidence before the Select Committee on the Irish Land Act, 1870 (see page 141), "in the strongest way in favour of the creation of peasant" (and yeomen) "proprietors as the real remedy for the evils of Ireland, and as the chief means of rendering the Irish a contented people. . . . . He was of opinion that before that could be effected, the Land Laws, namely the laws of primogeniture and the laws permitting entails, should necessarily be repealed, and he advised the repeal of these laws as regards Ireland. He also advised that the Church lands should be sold to the tenants in fee."

"Hasten," says M. de Beaumont, "to render the land free to commerce; divide, subdivide the land among actual owners of it as much as you can; the only means of raising the lower classes of the Irish is by overturning an aristocracy which ought to fall; the only means of reformation is to bring the land within the reach of the people; it is necessary, above all things, that the people of Ireland should become proprietors." (See "L'Irlande Sociale," &c., tome deuxième, p. 200.)

Now, why do I cite these remarkable passages from this celebrated work? I do it for this reason. It would have been impossible for M. de Beaumont to have expressed such opinions, or to have come to such conclusions, unless he had, after his intimate knowledge of his own country and of the working of the French Land Laws, come to the conviction that those laws were, by creating a vast class of yeomen and peasant farmers, working out the regeneration and vast prosperity of his own native land. He found poor Ireland "a pauper warren" *without* the influence of those laws, and he knew that his own country was rising far above such a miserable and degraded state of things as M'Culloch prophesied *by the influence* of those laws. But the most recent, and at the same time the highest, French testimony

remains to be cited. It is that of M. de Lavergne. He is well known, as Mr. Cobden said, "as one of the most accomplished, laborious, and conscientious writers on agriculture of the present age." He also is a Membre de l'Institut. He has published several justly-celebrated works on the agricultural and rural economy of Great Britain and Ireland and France. A fourth edition of his well-known work on the "Economie Rurale de la France depuis 1789" was published in 1877. In all his works he is the consistent, able, but discriminating advocate of the division of land as it exists in France, and as contrasted with the system which prevails in Great Britain and Ireland. He says (see "Economie Rurale," 4th edition, page 49): "The small proprietors of land, who, according to M. Rubichon, were about three millions and a half in 1815, are at this day much more numerous; they have gained ground, and one cannot but rejoice at it, for they have won it by their industry." And in a letter to Mr. Leslie on the 6th November, 1869, (see Mr. Leslie's article in "Systems of Land Tenure in various Countries," p. 292), M. de Lavergne says: "The best cultivation in France, on the whole, is that of the peasant proprietors, and the subdivision of the soil makes continual progress. Progress in both respects was, indeed, retarded for a succession of years after 1848 by political causes, but it has brilliantly resumed its course of late years. All round the town in which I write to you (Toulouse) it is again a profitable operation to buy land in order to resell it in small lots. . . . I have just spent a fortnight near Beziers. You could not believe what wealth the cultivation of the vine has spread through that country, and the peasantry have got no small share of it. *The market price of land has quadrupled in ten years.* But for the duty on property changing hands, and the still heavier burden of the conscription, the prosperity of the rural population of France would be great. It advances in spite of everything, in consequence of the high prices of agricultural produce."

Mr. Leslie shows that, whilst subdivision progresses, a

movement is also always going on in the land market towards the enlargement of small properties, the consolidation of small parcels, and even in some places towards the acquisition of what in France are considered as large estates. The continuous acquisitions of land by purchase by the French yeomen, peasant, and labouring classes is indeed one of the best proofs of their social and moral wellbeing, and of the admirable effects of the division of the land upon them.

In another celebrated work, "The Rural Economy of Great Britain," M. de Lavergne says (I quote now from Mr. Leslie's essay, page 293): "The extent of farms, besides, is determined by other causes, such as the nature of the soil, the climate, and the kinds of crops prevailing. Almost everywhere the soil of France may be made to respond to the labour of man, and almost everywhere it is for the advantage of the community that manual labour should be actively bestowed upon it. Let us suppose ourselves in the rich plains of Flanders, or on the banks of the Rhone, the Garonne, or the Charente. We there meet with the *petite culture*, but it is rich and productive. Every method for increasing the fruitfulness of the soil and making the most of labour is there known and practised, even amongst the smallest farmers. Notwithstanding the active properties of the soil, the people are constantly renewing and adding to its fertility by means of quantities of manure, collected at great cost; the breed of animals is superior, and the harvests magnificent. In one district we find maize and wheat; in another, tobacco, flax, rape, and madder; then again, the vine, olive, plum, and mulberry, which to yield their abundant treasures require a people of laborious habits. Is it not also to small farming that we owe most of the market-garden produce raised at such great expenditure round Paris?"

And then, writing of the cottages of the small peasant farmers, M. de Lavergne goes on to say (I still quote from Mr. Leslie): "There is nothing so delightful as the interior

of these humble cottages; so clean and orderly, the very air about them breathes peace, industry, and happiness; and it is pleasing to think that they are not likely to be done away with," or, as M. de Lavergne might have added, that any great landlord could evict the tenants, as the cottages as well as the farm belong to the inhabitants.

And speaking of the interior of the houses of the small peasant farmers, Mr. Hamerton, in his most interesting work "Round my House" (page 235), says: "In the furniture of their houses the peasants are equally regulated by fixed usages. The cabinetmaker's work is always of walnut, and nearly of the same design. The bed, the linen-press, and the clock are the three items to which most care is given. Sometimes you will find two beds, two linen-presses, and two clocks in the same room, one set belonging to the parents, the other to a married son. The women are proud of their linen-presses, which are prettily panelled, and they rub the panels till they shine."

The amount of debt on the peasant properties of France has been enormously exaggerated. M. de Lavergne estimated it at five per cent. on an average of their total value; and Mr. Leslie (in his Essay, p. 298), says: "The marked improvement in the food, clothing, lodging, and appearance of the whole rural population is of itself unmistakable evidence that they are not an impoverished class, but, on the contrary, are rapidly rising in the economic and social scale."

That this must be so is shown still more clearly by the statistics published by M. de Lavergne. He estimates the increase in the yield of wheat in the 25 years preceding 1851 at 7,000,000 quarters. In 1850 he says the gross money yield would reach £44,000,000; in 1876, £58,000,000. He says that in 1850, the produce of wine was less than 900,000,000 gallons and the price only 5*d.* per gallon, and that the produce is now (that is in 1876) over 1,000,000,000 gals. and the price is 10*d.* per gal. He says that milk has increased in about the same proportion

as wine; and that butter is also made more largely, and that beetroot has progressed with enormous strides. He says finally, that, taking agricultural progress as a whole, the £200,000,000 of twenty-five years ago are now £300,000,000, in spite of the loss of Alsace and Lorraine, but that much of this increase is due to the opening of new railways, and improved means of transport. (See Richardson's "Corn and Cattle Producing Districts of France," p. 522.)

But still it must be borne in mind that the very opening of these new modes of communication, especially after the fearful disasters and losses of France and the tremendous taxation, is a marvellous proof of the rapidly growing wealth and resources of that country, and a wonderful refutation of M'Culloch's dismal prophecy.

I shall have to return again to this important subject.

LETTER XI.

EVEN THE FRENCH SYSTEM PROMOTES THE PROSPERITY AND HAPPINESS OF THE RURAL POPULATION.

August 26, 1878.

In my Letters No. IX. and No. X. I have endeavoured to explain, as simply as I could, what the French system of Land Laws is, and what effect this system is producing in France upon the yeomen and peasant farmers of that country. I am most anxious that it should not be supposed for a moment that I am arguing in favour of our adopting the French system of compulsory subdivision; but so many absurd statements have been made in this country about the ruinous effects of that system, for the purpose of throwing obstacles in the way of the reform of our own feudal Land Laws—as if there were no intermediate system of Land Laws between the French and our own—that I wish to prove by the highest authorities that even the French system, instead of promoting the ruin or impoverishment of the countries in which it prevails, and spite of the ignorance of the French yeomen and peasant farmers, is rapidly increasing the wealth of the country, promoting the moral and economical prosperity and happiness of the farming and rural classes, and, by establishing the contentment of these classes, is at the same time increasing the stability of the Government.

This is the reason why I return in this letter to the consideration of the opinions of eminent men upon this most important part of my subject. The elevated character

and eminent position of the French advocates of the French system seem to have had their effect on the conservative and philosophical mind of Dr. Chalmers, who visited France in 1838, imbued with M'Culloch's predilections against the division of landed property. "Dr. Chalmers records in his diary" (see Mr. Cobden's letters), "which has been published since his death, the conversations he had on this subject with men of the highest social and political position, whom he describes as 'intelligent and truly Conservative.' One of them, François Delessert, member of the Chamber of Deputies, a Parisian merchant, tells him that he 'apprehends no harm from the subdivision of property, speaks of the checks to it, says that it is greatly overrated, and that family arrangements often prevent it.'" Dr. Chalmers also says that the then Duke de Broglie made a very able defence of French Land Law.

A few years after 1838, the agricultural districts of France were visited by Mr. Coleman, Professor of Agriculture in Massachusetts. He was sent by that State on a special mission to report on the condition of agriculture in Europe. He was therefore eminently qualified to form a sound and valuable opinion on this subject. It would be difficult to find a witness more deserving of attention. He says—I quote from Mr. Cobden's most able letter:—

"At first I thought I should find nothing in French agriculture worthy of much attention, but my opinion has undergone a change, and I begin to think their agriculture not only good, but advanced. They do not grow the same productions as in England; their work is not executed in so neat a manner; their implements are primitive and somewhat rude; their neat stock is less improved, and indeed the whole system is different; but I am disposed to believe that their farming is more economical, and that, taken as a whole, the condition of the labouring classes is superior to that of the English . . . I have never seen a more civil, clean, well-dressed, happy set of people than the French peasantry, with scarcely an exception, and they

contrast most strongly in this respect with the English and Scotch. I seldom went among a field of labourers in England or Scotland, especially if they were women, without some coarse joke or indecent leer. It is the reverse in France. The address even of the poorest (I do not at all exaggerate) is as polite as that of the best people you find in a city; so far from soliciting money, they have refused it in repeated instances when, for some little service, I have offered some compensation. Count de Gourcy told me again and again that even the most humble of them would consider it an offence to have it offered them. I do not believe there ever was a happier peasantry than the French, and they are pre-eminent for their industry and economy."

Is it possible to offer much higher praise than this of the effects of the French system, and is it possible to find a witness more thoroughly competent and trustworthy to give it? It must be remembered that Mr. Coleman was writing about 1842. Since that time the yeomen and peasant farmers of the Continent have vastly improved their modes of culture, their knowledge of agriculture, and the amount of produce they win from the soil. And since he wrote in 1842 of the primitive and somewhat rude implements of the small proprietors, they have been learning gradually, over the whole of these countries, how to avail themselves, by co-operation and association, of expensive machines and mechanical contrivances similar to those employed in England and Scotland by the great leasehold farmers. With respect to this, Mr. Cliffe Leslie, who has studied the French system and who is personally acquainted with France, gives some very interesting and valuable evidence in his essay on France published in "Systems of Land Tenure in various Countries," (p. 302). The passage is well worthy of perusal and study for many reasons, as the reader will perceive. He says: "In the departments immediately surrounding Paris, large farming is to be seen in the highest perfection, of which the reader, who has not visited them, will find a description in M. de Lavergne's

'Economie Rurale de la France.' Yet, after noticing several magnificent examples, he adds—'While *la grande culture* (*i.e.*, farming on a great scale) marches here in the steps of English cultivation, *la petite* (*i.e.*, farming on a small scale by the owners themselves) develops itself by its side and surpasses it in results.' The truth is, as we have said, that the large and the small farming (*i.e.* by the owner of the farm) compete on fair terms in France, which they are not allowed to do in England, and the latter has, to begin with, a large and ever-increasing domain, within which it can defy the competition of the former. The large farmer's steam engine cannot enter the vineyard, the orchard, or the garden. The steep mountain side is inaccessible to him, while the small farmer can clothe it with vineyards; and the deep glen is too circumscribed for him. In the fertile alluvial valley, like that of the Loire, the garden of France, his cultivation is not sufficiently minute to make the most of such precious ground, and the little cultivator outbids him, and drives him from the garden; while, on the other hand, he is ruined by attempts to reclaim intractable wastes, which his small rival converts into land of superior quality. Even where mechanical art seems to summon the most potent forces of nature to the large farmer's assistance, the peasant contrives in the end to procure the same allies by association; or individual enterprise finds it profitable to come to his aid. It is a striking instance of the tendency of *la petite culture* to avail itself of mechanical power, that the latest agricultural statistics show a larger number of reaping and mowing machines in the Bas Rhin, where *la petite culture* is carried to the utmost, than in any other department. Explorers of the rural districts of France cannot fail to have remarked that *la petite culture* has created in recent years two new subsidiary industries, in the machine maker on the one hand and the *entrepreneur* on the other, who hires out the machine; and one is now constantly met, even in small towns and villages, old-fashioned and stagnant-looking in other respects, by the

apparition and noise of machines of which the large farmer has not long been possessed."

Mr. Richardson, who in 1878 published a long and elaborate work, entitled "The Corn and Cattle producing Districts of France," and full of the most interesting details collected by himself in his travels through France, says (see p. 400): "The use of machinery is becoming more general; threshing machines have long been in use, and in the arrondissement of Melun (250,000 acres) there were, in 1873, seventy reaping and twenty-five mowing machines. The number has increased rapidly since then. It is becoming the practice of the smaller farmers to engage with the larger ones for the hire of implements, and also for them to club together for the purchase of horses and utensils, thus forming a kind of agricultural association.... Steam power in doing field-work is not at present in much use, but it is making progress.... M. Decanville is making steam ploughs at his iron works, suitable for French farms, less expensive than those of English workmanship."

Another charge is brought against the French system of compulsory subdivision, viz., that it necessarily forces the division of the farms to such an extent that it becomes impossible to farm the small divided plots with any advantage. That this is the case in some instances I do not deny, where the proprietors are wanting in intelligence, or where family disputes occur; but what I do deny is that this is the necessary or usual consequence of these laws.

In many parts of Switzerland, the small landowner farmer, with his 10, 20, or 30 acres, has a roomy, substantial, comfortable Swiss cottage built on his land, generally surrounded by his kitchen garden, where he raises his fruits, vegetables, and a few flowers. About 100 yards from his cottage stands the cow and goat shed, a thoroughly substantial building, constructed of pine logs fitted together in the ingenious and strong Swiss style. The interior of this has a boarded floor slanting from each side towards the middle, where there is a wooden drain or channel, by which every

drop of liquid manure is conveyed away to the receiving tank. Above the shed there is a large loft, where the hay and dried leaves are stowed for the winter provision of the cows and goats. I have constantly taken shelter in these sheds, and admired their cleanliness and their comfortable accommodation for the small farmers' cattle. Now the farm, with this house and farmstead, does not really divide among the children, spite of all that law may say. The children make their own arrangements, one paying off the others, either at once or by degrees, and the others going to service, to the towns, or to other pursuits. But the Swiss, be it remembered, have been long well educated, and are thoroughly intelligent.

Let us, however, turn to another set of intelligent and educated class of small yeomen farmers, owning their own farms, and subject to the French system of Land Laws; I mean the so-called "*bonder*" of Norway. And here I quote from Mr. Thornton's admirable work, "A Plea for Peasant Proprietors," (second edition, p. 82). He says: "The *bonder* of Norway, for instance, have from time immemorial been owners of their respective farms, which, moreover, have always been legally liable to division among all the children of a deceased proprietor; yet the division of land has made so little progress in the course of many centuries that very few estates are under forty acres, and very many are above three hundred acres, independently of an extensive tract of mountain pasture belonging to every farm. Some idea of the condition of the farmers may be formed from the following particulars respecting the farm servants. These, if unmarried, are lodged in an outhouse adjoining their master's dwelling, which it resembles in appearance, neatness, and comfort; they are allowed four meals a day, consisting of oat or bean meal, rye bread, potatoes, fresh river and salt fish, cheese, butter, and milk; and once or twice a week they have meat, sometimes fresh, but more frequently in the shape of salt beef, or black puddings. At one of their meals they have also beer, or

a glass of potato spirits. Their money wages, in addition to all this, are about 4½*d.* a day. A married labourer lives on the outskirts of the farm in a cottage of his own, generally a good loghouse of four rooms, with glass windows, which is held on lease for the lives of himself and his wife, together with a piece of land large enough for the keep of two cows or a corresponding number of sheep and goats, and for the sowing of six bushels of corn and three quarters of potatoes. . . . It need scarcely be said that a houseman, as a married labourer of this kind is called, is in a very comfortable situation; in fact, he wants few if any of the comforts which his master possesses; his house, though smaller, is as well built; his food and dress are of the same materials. The peasant proprietors, like their servants, are satisfied with articles of home growth, and are little desirous of foreign luxuries. They build their own houses, make their own chairs, tables, ploughs, carts, and harness. Their wives spin their own flax and wool, and weave their own linen and woollen cloth; almost everything they use is the produce of their own farms, except glass, pottery, ironware, sugar, coffee, spices, and tobacco." After showing that, if the Norwegian farmer's family did not employ themselves through their long winters in making the articles mentioned, a great part of their time would be wasted, instead of being, as now, most profitably employed, Mr. Thornton continues: "Although the mode of life of the Norwegian country people may be somewhat rude, it would be difficult to find a happier race; they enjoy plenty and are content; they care little for outward show, and are exempt from the painful desire to outvie their neighbours, which makes many wretched in the midst of wealth."

But the fact which I am most desirous of impressing on my readers' attention in this interesting passage is, that the Norwegian farms, although subjected to the same laws as those of France, *do not subdivide in any extreme or inexpedient manner.* And it is probable that this will also be the case in France, as education advances among the peasant classes

of that highly-gifted people. But before passing away from the objection that the French system of compulsory subdivision on the death of an owner necessarily leads to excessive subdivision and to inconveniently small properties, it is necessary to bear in mind a fact to which I have already alluded, but which cannot be too earnestly impressed on the attention of my readers. It is this: The average size of the actual farms, properly so called, cultivated and farmed by their owners, is lessened and unfairly represented in many of the calculations published on this subject, by adding to the number of these actual farms, the little kitchen gardens, the small orchards, the little fields for the keep of a cow or a donkey, which belong to peasants who do not pretend to be farmers, but who are in reality only day labourers or operatives, who live in their own cottages, and who have purchased their gardens, orchards, or fields to add to the comfort and maintenance of their families, and then calculating the average size of the real farms on the total number of the actual owners of farms, and also on the owners of the gardens, orchards, and fields. In all these countries it is a common thing in the manufacturing districts for a mechanic, or an operative, or a mere day labourer to *own* a good kitchen garden or a good orchard, in which he works and employs himself in the evenings. These are the freeholds of these men, purchased by themselves, cultivated by themselves, and adding to the comforts of their families and to their own happiness. And need I say that many a man is by this possession of property of his own often kept from drink, and the drinking shop, because he wants to invest all he can spare in the improvement of his own garden or orchard? He would have far less interest in their prosperity if they belonged to a landlord, who might resume them any day. It is ridiculous to reckon these classes of owners among the agricultural owners.

I have written so far from my own personal knowledge and observations in these countries; but let me confirm my evidence by an interesting passage from Mr. Thornton's

"Plea for Peasant Proprietors," (second edition, p. 85). He says, speaking of the Swiss, who have almost universally the French system of Land Laws: "The peasantry, although almost universally landed proprietors, may be divided into two classes—those who are principally or exclusively agriculturists, and those who gain a livelihood chiefly by manufacturing industry. The farms of the former, except in the cantons of Berne and Tessin and a few other districts, seldom exceed forty or fifty acres, but they are as rarely of less size than ten acres, and the poorest farmers, having rights of pasturage on the common lands belonging to every parish," (or, as he might have said, on the often very extensive and rich mountain pasturages which belong to most parishes), "can afford to keep two or three cows. Members of this class are always in the enjoyment of competence, and many of them possess considerable wealth. Besides these, however, there is a more numerous body of smaller proprietors, whose territorial possessions consist only of a field or two, altogether not larger than an ordinary garden, and much too small for the maintenance of the family to which they belong. . . . The owners of these patches are almost invariably manufacturers rather than husbandmen. . . . In England the makers of these articles" (the manufacturers of Switzerland) "would have been pent up in towns, and compelled to pass their days in close dismal factories; but in Switzerland a happy combination of circumstances permits them to practise their business without forfeiting the use of fresh air or the other advantages of a country life. . . . They gain their living principally as manufacturers; land is valued by them as affording a means not so much of employment as of amusement" (and, as Mr. Thornton might have added, of adding to the comforts of their families); "and they require no more of it than will suffice to occupy their leisure. . . . In the outskirts of one or two English towns patches of garden ground are rented by a few operatives. . . . The difference between such operatives and those of Switzerland is that the latter, besides possessing

more land, and besides being owners instead of mere renters, are not confined to towns, but are spread over the whole country, and have their fields and gardens adjoining their dwellings. They are manufacturers, deriving from land a small addition to their principal occupation. . . . 'I am acquainted,' says Dr. Bowring, 'with no country in which prosperity has descended so low, and spread so widely, as among the laborious classes of the Swiss manufacturing districts. I was surprised to find what large proportions of them had by their savings acquired landed property; how many of them dwelt in houses and cultivated fields and gardens, which their industry had made their own. . . . Everywhere, indeed, where the operatives are settled I found in their habitations a mass of enjoyments, such as are possessed by few of similar station in other countries.' (See Bowring's 'Report on Commerce and Manufactures of Switzerland,' pp. 3-6.) A weaver in Argovia (one of the Swiss cantons), says Mr. Symons, 'is almost universally the proprietor, or the son of a proprietor of land, and few householders are there in the whole canton who do not keep a pig, and generally a few sheep. Their cottages are strewn over the hills and dales, and exhibit in the interior every degree of comfort and ease. . . . The cottages of St. Gall and Appenzel (two Swiss cantons) are scattered separately over the vales and hills, each standing in the midst of its little estate, with the goats or sheep, with their melodious bells around their necks, grazing on the land, which is generally pasture. The interiors of the cottages, which are built of wood, are cleanly beyond description, and are well furnished with every article of cottage comfort,' (see his 'Report on Swiss Handloom Weavers,' *passim*)." So far Mr. Thornton. I quote him to show how absurd it is to reckon this class of small landowners with the agricultural farming landowners in order to reduce the general average of the size of farms properly so called, and which are cultivated by the owners themselves. I cannot leave the notice of Switzerland, which this part of

my subject has forced upon me, without quoting a sentence from Mr. Laing's "Notes of a Traveller" (p. 354); and all the more so because he is the cold and very cautious critic of the French system of Land Laws which prevails in Switzerland. He says: "The peculiar feature in the condition of the Swiss population—the great charm of Switzerland, next to its natural scenery—is the air of well-being, the neatness, the sense of property imprinted on the people, their dwellings, and their plots of land. The spirit of the proprietor is not to be mistaken in all that one sees."

The above remarks I well know, from my own personal observations during many visits to that country since 1843, are singularly true. I was living in 1876 for six weeks among a community of these Swiss proprietors and farmers, on a rich slope of the mountains above the Lake of Thun. On the vast slopes of these mountains, within six miles of where I was residing, there were three communes or parishes, composed of many homesteads and many farms. Each parish had its excellent school and its trained and certificated teacher. Each of these parishes had vast tracts of common pasture grounds on the higher parts of the mountains. On these common pastures, at different heights up the mountains, as far as the pastures extend, large wooden cowsheds are built. As the snow melts, the cattle of the whole parish are driven by a certain number of experienced herdsmen up the mountains, first to one great cowshed and its pastures, and then later on, as the snow melts, to another still higher, until they attain an altitude of some 6000 feet above the sea. Each evening the herdsmen bring them to the shed, milk them, churn the butter, make cheese, carefully collect the solid and liquid manure, and then men employed for the purpose from time to time carry down the produce and sell it in the valleys below. In October, when the cattle have returned to the homesteads, driven down by degrees by the snow from one pasture ground to another, the produce of the season is divided among the farmers of the parish, according to the amount of their land and the

number of their cattle. After this has been done, each farmer puts his cows into their winter quarters, and the manure is carefully brought down from the cowsheds to the parish and its farmers. This is effected by carrying it in large wooden tubs or cases, slung on the backs of porters. I have myself seen all these operations. But what I particularly want to observe is that in this beautiful land (which ought to be a "pauper warren" according to the English prophet, as it is governed by the French laws) these parishes, with their rich meadows, from which, by means of manure, two crops of hay are annually obtained, with their fruit trees, their picturesque cottages surrounded by their kitchen gardens, their picturesque winter cowsheds, and the general look of wellbeing and comfort which prevailed, formed one of the most prosperous, happy, and beautiful scenes imaginable.

But travellers go and see the men and women working in their everyday—carefully and decently patched and mended —workday clothes; the travellers are there in the summer months, when the children are not in the schools, but helping in little ways in the fields, in old patched workday clothes, and often without shoes and stockings, their tidy garments being put away for Sundays and schooltime, when they must appear clean and neat; and these intelligent travellers return home with the most piteous accounts of the pauperism and misery which they had observed in Switzerland, not troubling themselves to notice the same people on Sundays, when you may meet the whole family in neat, unpatched clothes, often made out of an excellent home-spun material, with clean and comfortable linen, and the women with their silver chains or cantonal costumes. I have often stopped to chat with them, and said to myself, "What a contrast to an English labourer's family, on the same good day of rest! Are these the people who are being ruined by the French system of compulsory subdivision?"

I shall conclude this letter by a passage I shall quote from Mr. Thornton's "Plea," &c., (p. 147, second edition).

He says: "Taking a comprehensive view of France, we have seen that the number of landed proprietors has long remained nearly stationary; that cultivators deriving a livelihood from their own fields have, in general, land enough for their maintenance in comfort; and that the condition of the peasantry and labouring classes has for many years been steadily improving."

In my next letter I hope to describe how the same or nearly the same laws as the French have operated in Jersey and Guernsey.

LETTER XII.

THE CHANNEL ISLANDS.

September 8, 1878.

In my Letters, Nos. IX., X., and XI., I have tried to explain the effects of the French system of Land Laws upon the yeomen and peasant farmers, not because I was in favour of those laws, but in order to show that those laws which are in force in France, Norway, Holland, the Rhine provinces of Germany, most of the cantons of Switzerland, and a great part of Italy, were not causing the evils which the enemies of all reform of our laws were industriously, and I hope ignorantly, charging upon them.

On the one hand, these laws enable the large and small farmers to buy farms of their own, while they also enable the mechanic and the day labourer to buy their cottage, garden, orchard, or field, and to look forward with hope to becoming greater proprietors; while our Land Laws, by tying up the land in estates of 1,300,000, 400,000, 200,000, 100,000, and 50,000 acres, deprive the small farmers, the peasants, and the mechanics of all chance of buying either farm, field, garden, or orchard.

On the mere statement of these facts, which are only too painfully notorious, and which are shown in detail in Letter No. I., which system, let me ask, is the most likely to promote the happiness and virtue of the people?

In this letter I propose (1), to answer another objection to the French system; and (2), to show what results the French system of Land Laws has produced in Jersey and Guernsey, a part actually of our own territory.

It is constantly urged in this country by opponents to reform of the Land Laws, and by men who ought to know better, if indeed they have ever given a serious thought to the subject, that the system of free trade in land would never succeed in our country, on account of our changeable, cold, and uncertain climate, and that therefore it is better to tie up the land in estates of one million and four hundred thousand acres, and to farm them by tenants, who generally have not even the security of a lease. The objection has been urged over and over again, and even before a late committee of the House of Commons. But what are the facts? In the short summers and long severe winters of Norway; in Holland, with its fogs and long winters; in Northern France, with a climate very similar to our own; in Southern France, with its sunny and hot climate; in the plains of Switzerland, with their short but hot summers; in the mountain cantons, with their severe winters and short summers; in Italy, with its hot climate; in the cold climate of Northern Germany, with its severe winters; in the hot climate of Southern Germany; on the banks of the Rhine, with its splendid vineyards and orchards; in the Channel Islands, with a climate scarcely warmer than Devonshire; in fact, everywhere where free trade in land, or the French system, is being tried over the whole face of Europe, these laws are promoting the welfare, the happiness, and the morality of the people.

When the blessing of the abolition of the feudal laws has been once conferred, no Government, whatever its political tendencies, has been found strong enough, or courageous enough, to attempt to repeal the new system of laws; and struggle as the landowners of our empire may, no sooner will the people understand the character and effects of our own Land Laws, than the day for their complete abolition will have come.

But let us turn to a portion of our own empire, which, strange to say, has for a long series of years enjoyed, spite of English landowners, a system of Land Laws almost pre-

cisely similar to the French system, and let us see how it works there. I refer to the Channel Islands. And certainly the first observation which strikes one is this: if the system of laws produces as many evils as the English landowners and their friends allege, why do not they, the most powerful party in this country, release the Islanders from the tyranny of these laws? The answer is here just the same as everywhere else: the people of the Channel Islands are satisfied with them, are wonderfully prosperous under and in consequence of them, as I will show, and no change could be effected in them, except at the cost of a rebellion in the Islands; and consequently the English landowners are compelled to endure the spectacle of a people, forming part of our own empire and close to our own shores, flourishing in an extraordinary way, by what is refused to our people here, viz., the abolition of the feudal Land Laws.

For nearly all the statistics and facts I am going to give about the Channel Islands, I am indebted to a work I have often quoted, "A Plea for Peasant Proprietors," by William Thomas Thornton, C.B., and to a very interesting article by an experienced traveller and an able writer, the Rev. F. B. Zincke, contained in the "Fortnightly Review," (No. CIX., New Series, January 1, 1876).

Both these gentlemen speak from their own personal and recent researches in the Islands, and I need hardly say both are witnesses above all suspicion.

Now it appears that the Land Laws of Guernsey require land to be divided among all the children of the last owner, daughters as well as sons, though they treat the latter in general more liberally than the former, and permit the eldest son, besides sharing with his brothers, to take in addition his father's principal dwelling-house and about sixteen perches of ground adjoining it.

The law in Jersey slightly differs from that in Guernsey. In Jersey, the Land Law permits the eldest son not only to take the dwelling-house and the curtilage, and a small portion of his own selection, equal to a little more than

two English acres, but, in addition, one-tenth in value of the remainder of the property. He takes, besides this, a small portion of land *pour les mousquets*, that is, nominally to enable him to furnish his contribution to an ancient assessment for the militia. This contribution is, however, never exacted, as the War Department supplies the militia with rifles.

The rest of the property is then divided amongst all the children, including the eldest son, in the proportion of two-thirds among the sons and one-third among the daughters, but with this qualification, that no daughter shall take a greater share than a younger son. (See "Succession Laws of Christian Countries," by Eyre Lloyd, barrister-at-law; page 57.) So that it will be seen from the above statement that the Channel Islands have a law of compulsory subdivision very similar to that of France, but modified by some advantages in favour of the eldest son. But then it must be borne in mind that the French law permits the father to dispose by will, either to his eldest son or to any other person, of a certain defined portion of his estate, so that the Land Law of the Channel Islands will be found to be substantially similar to that of France, and to be open to all the objections so constantly brought against the much calumniated law of the latter country by our own naturally well-satisfied landowners. Let us see how this obnoxious law operates in the Channel Islands. We have already shown what results it has produced in other countries.

But first let me state in the following table what the area and the population of the principal islands were in 1861.

Name.	Acreage capable of cultivation.	Population.
Jersey	25,000	56,078
Guernsey	10,000	29,780
Alderney	1500	4933
Sark	600	600

Mr. Zincke says, that the largest proprietors of land capable of cultivation own only about 100 acres in Jersey

and about 50 acres in Guernsey. Mr. Thornton says that, whereas in England 30*s.* an acre would be thought a fair, and indeed rather a high, rent for middling land, it is only inferior land that in Guernsey and Jersey will not let for at least £4; while in Switzerland the average rent is £6 an acre. And indeed, according to Mr. Le Quesne, in his "Ireland and the Channel Islands" (p. 123), the average rent of good land in the Channel Islands may be estimated at £6 an acre.

There are, of course, in the Islands, and especially in Alderney, as in France and Switzerland, many small properties which are much smaller than the size I have mentioned, and which do not exceed one or two or five acres in extent. But the same remark applies to these, as to the similar plots in France and Switzerland. They are generally not farms. Their owners do not pretend to be farmers. Some of these plots are the kitchen gardens of shopkeepers in the towns. Some are the small plots or fields of cottagers, who earn their living by day labour. Some are the gardens of market gardeners, who now carry on a large trade with London in early vegetables, &c.

And such is the enterprise and intelligence of these small proprietors and gardeners, that they have—small as their population is, and small as their resources would be expected to be, by those who expect to find countries where land is much subdivided to be mere "pauper warrens,"—established a large trade with London in early vegetables, potatoes, grapes, apples, and pears. In 1873, as Mr. Zincke informs us, Jersey sent to London £300,000 worth of early potatoes, and Guernsey fifty tons of grapes grown under glass, an article of export, the amount of which increases every year. And as Mr. Zincke most truly adds, "without the division of the land, which obtains throughout these islands, these astonishing results could not have been produced. The temporary occupiers of other men's lands cannot plant orchards or build vineries; and as to the potatoes, which must be forced into maturity by the middle

of May, the culture they require is so costly—it amounts to about £40 an acre—that, as a general rule, it will not be applied on a large scale, or to land of which the cultivator is not also the owner." And this enterprise and intelligence of these small proprietors is shown in other remarkable facts. Guernsey contains only 10,000 cultivable acres in its whole extent—an amount of land which would in Great Britain and Ireland only constitute a respectable medium-sized estate—and yet this small island, with no large town, and only its yeomen and peasant farmers, is now spending £16,000 in building a covered market for vegetables and fruit. It has also, Mr. Zincke informs us, lately carried a broad street across the town of St. Peter's Port, from the harbour to the heights above the town, at a cost of £10,000.

But the great glory of this little island is its noble harbour, upon which it has from the resources of its inhabitants recently expended £285,000. Of this, at the time of Mr. Zincke's visit, 1875, £65,000 had been paid off, and the remainder of the outlay was being cleared off at the rate of £1500 a year.

"No one," Mr. Zincke says, "can see without surprise the massiveness of the enclosing walls of the harbour, and the amplitude of space on the top of them for quays, carriage roads, and footways."

Jersey, too, it appears, is constructing a new harbour in deeper water, for the accommodation of larger ships, as their old harbour was found too shallow. So much for the enterprise of these "pauper warrens."

Take another test of the prosperity of the two principal Channel Islands. Mr. Thornton says ("Plea," &c., page 40): "The agricultural population is more than four times as dense as in England, there being in the latter country only one cultivator to 17 acres of cultivated land, while in Guernsey and Jersey there is one to about four. Yet the agriculture of these islands maintains, besides cultivators, non-agricultural populations, respectively twice and

four times as dense as that of England. The difference does not arise from any superiority of soil or climate possessed by the Channel Islands, for the former is naturally rather poor, and the latter is not better than in the southern counties of England. It is owing entirely to the assiduous care of the farmers and the abundant use of manure."

Mr. Brock, a late bailiff of Guernsey, and therefore a person who ought to be competent to express an opinion on such a subject, says: "There are larger estates in England than the whole of this island." Mr. Brock might have said that there is one estate in England 20 times as large as the whole of this island, and several 10 and 15 times as great; and one in Scotland 130 times as great! Mr. Brock continues: "Let the production of the island be compared to that of any 10,000 acres kept in one, two, or three hands in Great Britain, and the advantage of small farms will be obvious." ("Guernsey and Jersey Magazine," October 1837, p. 258; Thornton's "Plea," p. 41.)

But let us inquire what the condition of the yeomen farmers and small owners is. I shall again cite Mr. Thornton, who has both examined for himself and who has examined the best authorities. "The happiest community," says Mr. Hill, "which it has ever been my lot to fall in with, is to be found in this little Island of Guernsey." ("Tait's Magazine" for June 1834.) "No matter," says Sir George Head, "to what point the traveller may choose to bend his way, comfort everywhere prevails," ("Home Tour through various Parts of the United Kingdom"); and then Mr. Thornton gives the results of his own observations in the following remarkable passage:—

"What most surprises the English visitor in his first walk or drive beyond the bounds of St. Peter's Port is the appearance of the habitations with which the landscape is thickly studded. Many of them are such as in his own country would belong to persons of middle rank; but he is puzzled to guess what sort of people live in the others, which, though in general not large enough for farmers, are almost invariably

much too good in every respect for day labourers. The walls are often completely hidden by rose trees, geraniums, and myrtles, which reach up to the ledge of the roof, and form an arch over the door. Every window is crowded with pots of choice flowers, which are sometimes to be found also in the little front garden, though the latter is more commonly given up to useful than to ornamental plants. Such attention to elegance about a dwelling has always been held to signify that the inmates are not absorbed by the cares of life, but have leisure and taste for its enjoyments. But beauty is not the only nor the chief recommendation of the Guernsey cottages. They are always substantially built of stone, and being generally of two storeys, contain plenty of accommodation. The interior is not unworthy of the exterior. In every room, pulley windows, with large squares of glass, take the place of leaded casements with diamond-shaped panes; equal attention is paid to comfort and to neatness in the fitting up; there is abundance of all needful furniture, and of crockery and kitchen utensils; and flitches of bacon, those best ornaments of a poor man's chimney, are scarcely ever wanting. This picture is not drawn from one or two select models, but is a fair representation of the generality of the dwellings of the peasantry. Literally, in the whole island, with the exception of a few fishermen's huts, there is not one so mean as to be likened to the ordinary habitation of an English farm labourer. . . . The people of Guernsey are as well clad as lodged. The working dress of the men, who wear a short blue frock over their other clothes" [a similar dress to that worn by the Swiss, French, and many of the German farmers and peasants, which washes easily and well, and which keeps the under garments clean, but which is so short as not to interfere with the free action of the limbs], "is not indeed very becoming, but is never ragged; and on Sundays they don a suit of broadcloth, while their wives and daughters make an equal display of the outward symbols of respectability.

"What makes the evident affluence of these islanders a

still more gratifying spectacle is its almost universal diffusion. Beggars are utterly unknown. . . . Pauperism, able-bodied pauperism at least, is nearly as rare as mendicancy. There are two so-called 'hospitals' in Guernsey, one for the town and the other for the country parishes, which, in addition to the purpose indicated by their name, serve also as poorhouses and houses of industry; yet the inmates of all descriptions in the town hospital, at the time of my visit, were only 80 men, 130 women, 55 boys, and 39 girls, and I was assured that every one of the adults was incapacitated from earning a livelihood by some mental or bodily defect, or by bad character. No one fit for employment had been compelled to take refuge there by inability to procure work. The same remark applies to the country hospital, in which I found 18 men able to work, but who were either habitual drunkards, or otherwise of such bad character that no one would employ them. The average number of inmates, of both sexes and of all ages and classes was 146." (Thornton's "Plea," p. 100.)

Writing of the houses and cottages of the farmers and peasants in the islands generally, Mr. Zincke says:—

"All that one sees in them speaks of sufficiency, ease, and prosperity throughout all classes. The number of substantial houses in the environs of their two towns surprises one who calls to mind the smallness of the islands of which they are the capitals. In the country parishes, too, good houses abound. One accustomed to the uninhabited look of so large a proportion of the rural parishes of England wonders how the possessors of so many good houses as he sees here can find the means to live in them. So with the better class of houses. The same is observable with respect to the houses of the peasantry and of the artisans. A month's search for something of the mean and dilapidated kind, not unknown among ourselves, was quite unsuccessful. I went into several cottages, all of which I found well built, roomy enough, and in good repair. This was very remarkable in the houses of the peasantry. As to the clothing

of their inmates, I nowhere saw the dirt and rags which so frequently shock us here at home, as signs both of actual pressing want and of the decay or extinction of self-respect. But to the eye of one who may be visiting these islands indications of the well-to-do condition of the people are presented on every side. The churches I saw were large for the acreage of their respective parishes, and were well kept; so much so, indeed, in most cases, that one could not but notice their dimensions and condition. They evidently belong to large congregations, who take a pride in them. The churchyards told the same tale. They are as carefully kept as the churches, and contain what to English eyes is an unusual proportion of solid tombs and massive tombstones. It is plain that here there are few so poor as to be obliged to bury their dead in unnamed graves.

"In accord with the testimony of the churches and of the churchyards is that of the village schools, judging by what a passer-by can see both of the buildings and of the little scholars. So also, particularly in Jersey, is the excellent condition of the roads, and the dressiness, almost everywhere, of the roadside margins. These generally consist of stone walls, or well-trimmed hedges, or earth banks, upon or beside which are rows of trees, sometimes fruit trees, all of which, whether fruit-bearing or timber trees, are carefully tended. This dressiness of the roadside in rural districts is again something new to English visitors, and adds much to the pleasure of a day's walk or drive in the interior of Jersey. To the thought it is even more pleasing than to the eye, for it intimates that every cultivator loves and is proud of his land, and is desirous that it should present a fair appearance to his neighbours and to the casual passer-by. It shows, too, that, with the careful attention which is found only in small cultivators who are at the same time owners of the soil, he is making the most of his opportunities; for these trees, which he plants on his roadside boundary bank, will some day send down their roots into the roadside margin, and even extend them into what soil

there may be beneath the road itself, and will find space for expansion above the road, without detriment to grass or corn. With such cultivators nothing is lost."

Mr. Thornton says of the dwellings of the farmers and peasants in Jersey: "As the estates of the peasantry are larger than in Guernsey, so also are their dwellings—a much greater proportion of which are of sufficient size to be styled farmhouses. Some of them, indeed, have so much architectural pretension that they might almost be mistaken for the residences of independent gentlemen, if the fields of corn, parsnips, or cabbages, lying close under the parlour windows, did not show that they really belong to farmers. On the other hand, the mere cottages are very inferior in outward appearance to those of Guernsey, being commonly built of rough stone, and sometimes apparently without any cement. Their inferiority, however, is probably" (as Mr. Zincke shows certainly) "only external; for, though I did not myself enter any of them, the well-dressed people whom I saw leaving them on Sunday were evidently not prevented by want of means from making themselves comfortable." (Thornton's "Plea," &c., p. 102.)

Mr. Zincke remarks that in the countries where small properties, the result of free trade in land, exist, or, as he says, "Everywhere in the world, except in our own country, we find general markets for the general accommodation of the middle and working classes flourishing." All who have travelled among the French and German country towns must have noticed this. The wives of the small farmers and market gardeners come in with vegetables, fruit, flowers, eggs, fowls, and all the produce of the season. In the smallest country towns, as was once the case with us, these markets are to be found flourishing. They are of the greatest value both to the small farmers, labourers, and general inhabitants of the locality, and they are also great incentives to the careful production of many vegetables and fruits which would otherwise be neglected.

The prosperous condition and good supply of these

markets is often a very fair index of the condition and prosperity of the farmers and market gardeners in the district around. These markets also enable the labourers to obtain what they need of garden stuff and of eggs, bacon, and poultry, much more easily, much more cheaply, and much better than in our country.

The Rev. F. B. Zincke complains of the decay of such markets in our country, and attributes it to the disappearance of our ancient class of yeomen farmers, who owned their own small properties, and he might have added, as he seems indeed to infer, to the miserable and pauperised condition to which we have reduced our peasantry. He says, (see his Essay, p. 4):—

"The people who supply a market of this kind are not extensive cultivators, but peasant proprietors. Of these, each does all that ingenuity and labour can, to turn every square foot of his little estate to the best account. Every scrap and corner of it, and what they are producing, and what they can be made to produce next year or a dozen years hence, are constantly mapped in his mind's eye. Here is a bit of wall, or an angle in a back yard, where there is room for a fig or a plum tree. The fig or the plum tree is planted before this bit of wall, or in this angle, and is carefully tended. This little bit of grass-land will support a few apple trees. The apples before long will be ripening above the grass. Before his potatoes are out of the ground, beet or broccoli is set between the rows. No leaf of this beet or broccoli will rot on the plant, but, as soon as it has done its duty to its parent, will be culled for the cow. The cow will supply milk and butter or cheese for the market. Cows and pigs and poultry are each kept in part as save-alls, and all alike for the market. These are the people who supply the market. Every week the good housewife herself brings to the accustomed stall all that she has ready for sale. This insures that everything the locality can produce, (and under this system every locality can be made to produce a great variety of good things), should be

exhibited in the market place in great abundance, and at very moderate prices. In the Guernsey vegetable market I counted upwards of a hundred of these peasant women in their stands at one time, many of them exhibiting upwards of twenty baskets of garden and dairy produce. Those who have any familiarity with the growing difficulty experienced in this country, possibly a result of our present system of land tenure, in supplying the working classes in our towns" (and, he might have added, in many of our richest rural districts) "with vegetables, fruit, eggs, butter, and milk, will regard such a market as that of Guernsey as of no small advantage to a locality."

But, as Mr. Zincke says, another cause which contributes to maintain these general markets is that they are, to a very great extent, supported by the yeomen and peasant proprietors, who learn by their own interest to raise whatever their land can be made to produce, and also how to make the best use of every good thing they raise. They know, he says, in what ways poultry may be cooked, as well as how to make soups of herbs and other simple but nourishing ingredients. Haricots and onions are much used by them. Cabbages are a valuable part of the household supply. Apples and plums are dried and stored for future use. All this is traditional lore in the small landowner's home. A varied, abundant, and cheap supply of vegetables and fruit is as necessary an ingredient in the dietary of adults as milk is in that of children. And yet in our rural districts it is often difficult, and sometimes impossible, for the labourer to buy any of these articles of food. And I have known cases where milk has been refused to the labourers, except on the application of influential landowners.

As to meat, how often do our rural labourers see it on their tables, unless it be a slice or two of bacon mixed with their bowl of potatoes on the Sundays?

But in the population of small landowners in the Channel Islands, there are many who are able to buy meat, as is proved by the fact mentioned by Mr. Zincke, that in the

meat market of St. Peter's Port, which is alongside the vegetable market, in Guernsey, there are thirty-six well-supplied butchers' shops, "a large number," as Mr. Zincke says, "for so small a place." The contiguous fish market, too, contains forty fishwives' marble stalls, on which, one morning in September 1875, Mr. Zincke counted twenty-two species of fish and crustacea.

The homes, the cottages, the farms, and the gardens of these prosperous islanders are their own. And how much is summed up in that fact! Is it not obvious, as the Rev. Mr. Zincke most truly and wisely says, that among the peasant and small farmer classes there can be no true home unless the house in which the family lives is its own property? What a vast difference there is between the cottage in which the English labourer lives by sufferance, liable to be turned out any month or year, and the cottage which the Channel islander and the foreign farmer or peasant has acquired as his own by his own exertions! If our small farmer or peasant has no lease, if the peasant may be turned out of his poor cottage at any moment, what motive is there to care for the shell of the cottage, except as a temporary shelter, of which he knows not how long the poor enjoyment may be spared to him? Such peasants will not repair; they will not beautify in many ways, which would otherwise be their pleasure; they will not try, by hard labour, to add to its conveniences. Why should they love to add to the beauty of their humble porches by training over them gay flowers; why should they bestow every spare penny on their garden and its productions; why should they spend their extra time and labour on its fences; why should they carefully prune and graft their fruit trees; why should they spare from their savings to buy new shrubs and trees, which next year or month may be their landlord's? What is there, in short, to create in their breasts that healthy and happy love of their cottages which the small owners of the Channel Islands, Switzerland, Germany, and France feel towards their own little homesteads, hardly

acquired, it may be, by much toil and self-denial, but when acquired, their own, safe from the greed or uncertain or tyrannical will of any one?

And is not this a great moral lesson for the people, worth, if necessary, the sacrifice of some portion of the net produce of the soil?

But it is not necessary to pay even this price; for nations who have promoted just laws, and repealed, no matter by what labour, these selfish and class feudal laws, have found themselves repaid by a just Providence, by the increased, and still increasing, industry, self-denial, temperance, conservative feeling, contentment, and prosperity of the rural classes.

Would to God that all Englishmen had had the opportunities which I have enjoyed of studying the results of abolishing these unjust, oppressive, and truly demoralising feudal Land Laws!

LETTER XIII.

ON BELGIUM.

September 23, 1878.

BEFORE leaving the important subject of the effects of the French system of Land Laws in the different European countries in which it has been in force for many years, I wish to direct the attention of your readers shortly to the effects of this system in the kingdom of Belgium; and I am all the more anxious to do so because many questions were put to witnesses upon this subject by members of the recent committee on the Irish Land Act, 1870, which has been sitting this year, showing too plainly that great misconceptions prevail as to the results of this system in that country.

"The case of Belgium," as Mr. Cliffe Leslie says in his "Land Systems of Ireland, England, and the Continent" (p. 348), "is the more striking an example since the peasant there has none of the special gifts which the skies of France bestow on *la petite culture*. The olive is not his; and the vine, though it grows an indifferent vintage on a few slopes in the east and south of the kingdom, is nowhere to be met with in Flanders. The soil of Flanders, moreover, is so poor by nature that even 'second' or intermediate crops require special manure. . . . The Pays de Waes, it should be observed, is not more fertile than the rest of the sandy regions, although it may appear so from the greater moisture of the soil, and its natural qualities were so far from attracting earlier cultivation than the rest of the province, that it

was not reclaimed for centuries after the environs of Ghent. More manure to the acre is applied in it at this day than anywhere else, even in Flanders." And M. de Laveleye, who is one of the most competent of, if not the most competent, writers on the agriculture of Belgium, and who is the author of two celebrated works on the agriculture of Belgium and Holland—viz., "L'Economie Rurale de la Belgique," and "L'Economie Rurale de la Néerlande"—and also of a most interesting essay in the "Systems of Land Tenure in various Countries," entitled "The Land System of Belgium and Holland," says (see his Essay, p. 199): "In England a contrast is often drawn between Flanders and Ireland, and the former is said to enjoy agricultural advantages not possessed by Ireland, such as great markets, a better climate, abundance of manure, more manufactures. . . . Flanders does enjoy certain advantages, but they are equally accessible to the Irish, derived as they are from human industry; whereas the advantages possessed by Ireland, coming as they do from nature, are not within the reach of the Fleming.

"Let us look, first, at climate and soil. The climate of Ireland is damper and less warm in summer, but less cold in winter. In Flanders it rains 175 days in a year; in Ireland 220 days. On this account the Irish climate is more favourable to the growth of grass, forage, and roots, but less so to the ripening of cereals; yet the Fleming would be but too happy had he such a climate, cereals being but of secondary importance with him, and often used as food for his cattle. He seeks only abundance of food for his cows, knowing that the value of live stock goes on increasing, while that of cereals remains stationary. Butter, flax, colza, and chicory are the staple articles of his wealth, and the climate of Ireland is at least as well suited to the production of these as that of Flanders.

"As for the soil of Ireland, it produces excellent pasture *spontaneously*, whilst that of Flanders hardly permits of the natural growth of heather and furze. It is the worst soil in

all Europe; sterile sand like that of La Campine and of Brandenburg . . . Having been fertilised by ten centuries of laborious husbandry, the soil of Flanders does not yield a single crop without being manured, a fact unique in Europe. . . . Not a blade of grass grows in Flanders without manure. Irish soil might be bought to fertilise the soil of the Fleming." M. de Laveleye goes on to show what extraordinary pains the Flemish farmers bestow on the collection, purchase, and preservation of manure, and what large sums they expend in its purchase, and he then continues: "On the whole, for carrying farming to a high pitch of perfection, Ireland enjoys far greater advantages than Flanders, the land being much superior, the climate equally favourable to the growth of valuable crops, and the same markets being at hand" to both countries.

But then, he might have added, the Irishman has not the wonderful stimulus of *owning* the land which he farms; and that, while in Belgium, as will be seen by and by, a great part of the farmers are spurred on to ever-renewed exertion and enterprise by the wonderful incentive of feeling that the land they farm is their own, and that every farthing and every hour's labour they expend upon it, is so much expended for their own sole benefit. Let the poor Irish tenant, working under an agent and without any lease even, be put in such a situation as the Flemish farmer, and we should soon see whether our Irish brother would not soon equal, if not outstrip, his Flemish competitor. In Belgium, the French system of compulsory subdivision of a great part of the land on the death of the owner, as described in No. 9, is in force.

But although this is the law of the land in Belgium, its effects are so modified in some parts of that country by local customs, and in other parts by the fact of the existence of so many manufacturing towns, that the consequence is that, while there are, as in all countries in which the French Land Laws are in force, great numbers of small farms, kitchen gardens, and single plots belonging to their culti

vators, there are at the same time a great number of estates which belong to the old noble families or to the rich manufacturers in the towns. These latter estates are seldom farmed by the owners themselves, but are let in farms of different sizes either to farmers who have no land of their own, or to farmers who, having small farms of their own, are desirous of cultivating more land than that which belongs to them, and of thus hastening the time when they will be able to add to their own property by purchasing more.

In Belgium the nobility have, spite of the law of forced subdivision on the death of an owner, retained, as many of the French nobility also have done, large estates. So that in Belgium leasehold farms are to be found in most parts of the country, existing side by side with what we should call "freehold" farms, or farms actually belonging to the cultivator.

Owing to the circumstances mentioned, and to the constantly varying fortunes of members of the manufacturing class—to their occasional insolvency, to their occasional want of all available capital for speculations, and to their frequent changes of occupation—there is a constant change going on in the land market; some seeking to buy, some to sell, some to sell in plots in order to obtain the higher price, and many eagerly competing to obtain sometimes only one and sometimes more of such plots.

It is found in Belgium, as in France, that when a large landowner sells he can generally obtain much more by selling in a number of small plots than by selling the whole estate in one lot.

The farms, which are let on lease by the manufacturers and others, are, as a rule, let on very short leases—three, six, or nine years at most, and more generally for three or six than for nine. And on these farms all the evils are to be found which result everywhere from short leases, insufficient security for outlay, and the little interest felt by such a tenant in improvements, as compared to the deep interest taken by the real owner in improving and expend-

ing upon his own land. About one-third of the occupiers of land in Belgium are *owners*, and the other two-thirds *tenants* with very short leases.

Professor Baldwin, the chief inspector of agricultural schools in Ireland, was sent to Belgium in 1867 to study the condition of the agricultural tenants in Belgium. He was examined this year, 1878, before the select committee on the Irish Land Act, 1870, and gave some most important evidence upon the comparative condition of the small landowners and of the mere tenants of Belgium.

He says that "the small tenants are in a very indifferent condition, to say the least of it; that they are rack-rented; but the small owners, as a rule, are very prosperous and very contented, as they have an income from two sources; they have the income as proprietors, and the profit of the farm as well. I went in West and East Flanders from house to house, and I found more happiness and comfort and prosperity in the houses of the small proprietors" than in those of the mere tenants. "The tenant farmer has no money, and he is in a wretched state."

M. de Laveleye (see his Essay in "Systems of Land Tenure," p. 227) says: "If the cultivator of the soil is the owner of it at the same time, his condition is a happy one in Belgium, as everywhere else, unless the plot he holds is insufficient to support him, in which case he has to eke out his existence by becoming also a tenant or labourer. But as a rule the peasant proprietor is well off. In the first place, he may consume the entire produce of his land, which being very large, especially in Flanders, his essential wants are amply satisfied; secondly, he is independent, having no apprehensions for the future; he need not fear being ejected from his farm, or having to pay more in proportion as he improves the land by his labour." In short, he knows that the full and entire value of every improvement he effects will be his own or his children's, and that he or they will derive the whole advantage of every extra hour's labour.

But, as M. de Laveleye says (see Essay, p. 228), "the situation of the small Flemish tenant farmers is, it must be owned, a rather sad one. Owing to the shortness of their leases, they are incessantly exposed to having their rents raised or their farms taken from them. Enjoying no security as to the future, they live in perpetual anxiety. So much does this fear of having their rents raised tell upon their minds, that they are afraid to answer any question about farming, fancying that an increase of rent would be the inevitable consequence."

But this state of things is gradually disappearing, by the gradual division of the larger estates among smaller proprietors, who farm their own land themselves.

In 1846 there were only 758,512 owners of land in the whole of Belgium.

On the 1st January 1865 there were in the entire kingdom 1,069,326 owners. (See M. de Laveleye's Essay, p. 204.) Thus it appears that between 1846 and 1865 the number of landowners had considerably increased.

M. de Laveleye (see his Essay, p. 212) gives the following as the reasons why the Flemish husbandman derives such abundant produce from a soil which is naturally, as he says, "so poor," viz :—

"1. The perfection of both plough and spade work.

"2. Each field has the perfection of shape given to it to facilitate cultivation and drainage.

"3. Most careful husbanding of manure. None is wasted, either in town or country; and all farmers, down to the poorest tenants and labourers, purchase manure from the dealers."

(I have shown already how extraordinarily careful of their manure the small Swiss farmers are, and what pains they take that none shall be wasted, but that all, both solid and liquid, shall be returned to the land.)

"4. The great variety of crops, especially of industrial plants, viz., colza, flax, tobacco, hops, chicory, &c., yield-

ing large returns and admitting of exportation to the most distant countries.

"5. Second, or 'stolen' crops, such as turnips and carrots, after the cereals, of English clover, sparry, &c., whereby the cultivated area is in effect increased one-third.

"6. Abundance of food for cattle. Although the soil is not favourable to meadows, yet, taking the second crops into account, one-half of the available superficies is devoted to the keeping of live stock. Hence the rise of rents, although the price of corn is hardly increased.

"7. House-feeding of the cattle, by which the cows give both more milk and more manure.

"8. Minute weeding."

Writing of the great value set upon manure by the small farmers, M. de Laveleye (Essay, p. 209) says: "The institution in Flanders in aid of agricultural credit is the manure merchant, who has founded it in the best of forms; for money may be spent in a public-house, but a loan of manure must be laid out on the land.

"The poor labourer goes with his wheelbarrow to the dealer in the village to buy a sack or two of guano, undertaking to pay for it after the harvest. The dealer trusts him, and gives him credit, having a lien on the crop produced by the aid of his manure. In November he gets his money; the produce has been doubled, and the land improved.

"The small farmer does as the labourer does; each opens an account with the manure dealer, who is the best of all bankers.

"The large farmers of Hainault and Namur do not buy manure, fancying they would ruin themselves by doing so. The Flemish small farmers invest from fifteen to twenty millions of francs in guano every year, and quite as much in other kinds of manure. Where does large farming make such advances?"

In another place (see Essay, p. 199) M. de Laveleye says:

"The Flemish farmer scrupulously collects every atom of sewage from the towns; he guards his manure like a treasure, putting a roof over it to prevent the rain and sunshine from spoiling it. He gathers mud from rivers and canals, the excretions of animals along the highroads, and their bones for conversion into phosphate. With cows' urine, gathered in tanks (exactly as in Switzerland), he waters turnips, which would not come up without it; and he spends incredible sums in the purchase of guano and artificial manures."

What a contrast to many parts of our own country! Not many miles from where I am writing there lives a very intelligent farmer, much respected both by his neighbour farmers and by the gentry around. He farms between 100 and 200 acres. His land consists of a loamy soil, perhaps a foot and a half deep, lying on the top of chalk, which is much broken up and more pervious to rain than even gravel. His land requires much manure. He has made, on the higher part of his land, large tanks, cut in the chalk, but not lined with cement or anything which could make them watertight. He has conducted by pipe drains into these tanks the sewage from extensive farm buildings and dwelling-houses. His land slants downwards from these tanks, rendering it very easy to irrigate it with the liquid manure, and, as I have said before, it is land which requires all the manure it can get. What does this intelligent and really superior English farmer do? He allows all the liquid manure, of which there is a vast quantity, to run away into the chalk to be lost, except a small quantity, which he uses for a kitchen garden. The solid sediment he has the good sense to make use of. And then, having thrown away all this valuable liquid manure, he goes to the market from time to time, and buys manure in a stinted manner, as he fancies he can afford.

If he had been a farmer in Switzerland, farming his own land, his tanks would be watertight, he would have a water-cart on his farm, and before the first crop was sown, and as soon as the first crop was removed, the cart, having been

filled from the tank, would water the land, and so prepare it for the next crop that, by the aid of this rich and constant manuring, can be obtained from it. But, alas! there is as much manure wasted and thrown away in England as would, in my opinion, double or treble the produce of our country, if properly applied. I have given an instance of the waste of a very intelligent farmer. What must it be among the small and less scientific farmers throughout the country, farming another man's land, without lease or any valid security for improvements!

M. de Laveleye denies that the small properties of Flanders are burdened with debts, or that loans on them are raised at ruinous rates of interest, as opponents of the French system of Land Laws allege. A similar objection has been brought, as I have shown, against the small properties of France, and, as I have shown, has been disproved by the most competent writers on this subject.

Another objection which has been often urged against *la petite culture* (or the cultivation of small farms by their owners) in Belgium is that it does not admit of the use of agricultural machinery. I have shown how a similar assertion with respect to France is disproved by the actual facts.

With respect to Belgium M. de Laveleye says:—

"To disprove this objection I need not point out that to Flanders are due the best forms of the spade, the harrow, the cart, and the plough—Brabant ploughs having for a long time been imported from Flanders into England. It may be said that these are primitive, and not very costly implements. I need only reply, look at what is going on in Flanders at the present day.

"The most costly agricultural machine in general use in England is the locomotive steam threshing machine. Well, this machine is to be found everywhere in Flanders. Some farmers will club together to purchase one, and use it in turn; or else a villager, often the miller, buys one, and goes round threshing for the small farmers on their own ground at so much per day and per hundred kilos of corn. The

same thing takes place with the steam plough as soon as the use of it becomes remunerative.

"To keep hops in good condition, very expensive machines are required to press them. At Poperinghe, in the centre of the hop country, the commune has purchased the machines, and the farmers pay a fixed rate for having their hops pressed—which is at once an advantage to them and a source of revenue to the commune.

"The example of Flanders, therefore, proves that the division of land forms no obstacle to mechanical economy in farming."

All this, as I have already shown, is equally true with respect to the yeomen and peasant farmers of France farming their own lands; and even in Surrey, one of the richest farming districts of England, and in the part of Surrey in which I am residing, the same plan is pursued among the large leasehold farmers. Some one person buys the threshing machine, and it is hired in turn by all the farmers of the district around.

M. de Laveleye says (see Essay, p. 231) that in normal years there is no pauperism in the rural districts of Flanders; and it must be remembered that in No. XII. I showed that the same was true with respect to the Channel Islands. He also says that a stranger visiting Flanders should guard against rashly drawing unfavourable inferences from certain facts arising from custom. Some people, as he says, seeing women working in the fields barefooted, are apt to consider such a fact as a proof of extreme destitution. But they would be in error in coming to such a conclusion, as it is the custom of the country. "Well-to-do farmers' daughters, who are stylishly dressed on the Sundays, will work barefooted during the week." And as I have said in former letters, it is perfectly absurd to judge the condition of the men or women of the small farmer classes of Germany, Switzerland, and the Channel Islands by the working clothes worn by them on week-days when at work. These clothes are always decent, never in rags; they are often

made of strong home-spun materials; they are naturally stained by the work, the earth, and the rain, though often washed; they look poor enough in truth, but what would these complaining travellers have? Would they have the men and the women go to their work in their Sunday dress, or in their cantonal costume, or in their ornaments?

In all these countries, if you wish to see how the small farmers and their families dress, you must see them on Sundays, and ask yourselves then if our small farmers or our poor peasants and their families would bear the contrast. So it is also with the children. If they are not attending school, they wear their old patched clothes. Their school and Sunday clothes are laid by while they are assisting in the farm or garden labours.

There is in Belgium, as in all the countries under the French law, an excellent system of registration, which, by enabling a buyer to ascertain at once the exact state of the title to the land he wishes to buy and of the claims upon it, renders the purchase very easy, very expeditious, and very cheap. If any one wishes to buy, he goes to a notary, who obtains for him a copy of the exact state of the title from the official entries in the registry office.

The notary then prepares the deed of sale, which in all these countries is very short and simple, as none of our complicated settlements and arrangements are possible. This deed of sale is then signed by the buyer, the seller, two witnesses, and the notary. The minute or abstract of this deed is then taken to the office of the registrar, who puts an abstract of it on his register. After this the registrar transcribes the deed in full. The purchaser of the property who has been the first to have his deed transcribed is the legal purchaser as against all other subsequent buyers. There is, by these means, no difficulty whatever in ascertaining the state of the title of a plot of land at any moment. The whole transaction is very short and simple, and the expenses are very small.

But registration would effect only a very partial good in

England, unless we had got rid of the landowners' power to make the laws and complicated settlements, deeds, and wills which the law now permits them to make.

M. de Laveleye says that the small owners exercise great self-denial in their food and mode of life, in order to lay by money wherewith to purchase more land and to give their farms a better outline; and he says that the larger properties are hardly ever divided in consequence of the law of succession or forced subdivision, but simply on economical grounds, viz., because they fetch higher prices when sold in lots; and he adds that the peasant proprietor attaches so much value to the proper outline of a field that he would rather sell it in one lot than in plots; and Mr. Cliffe Leslie says ("Land System," page 309): "Little plots are continually for sale; transfer is easy and cheap; the labourer is frequently a buyer; and the notary does a flourishing business though his charges are low."

Writing of the character of the villages in Flanders from his own observation, Mr. Cliffe Leslie says ("Land System," p. 317): "The very variety and beauty of the houses in these Flemish villages is no mean result of the cultivation of the country, and must have a most beneficial effect on the minds of the rural population. The grace of the dwellings of the wealthier small proprietors, embowered in tiny pleasure grounds, is beyond description. But the humblest workman's cottage is exquisitely neat, and each has something about it which gives it a character of its own. And look within; look at the furniture, the bright ware, the clock, the petroleum lamp, the chest of drawers, and its contents, and see what a quantity of auxiliary industry agriculture has called into existence in the house of the poorest of its village servants."

Now such is the description in another of M'Culloch's "pauper warrens," of the effect of this terrible French Land Law. And be it remembered, the prosperous condition of the Belgian yeomen and peasant farmers, who cultivate their own land, has grown to its present state, just as in France,

spite of defective education, caused by the religious strife which has afflicted that brave and industrious little country so many years.

Since the last elections, which have led to such a victory for the Liberal party, we may now soon expect to see good schools, liberal teaching, and well-educated teachers in every commune; and by their means we shall see in Belgium what Germany and Switzerland have already attained—improved cultivation, good agricultural schools, more scientific farming, and a still greater advancement than they have even now attained, in the prosperity and well-doing of the rural districts. But, even as it is, look what wonderful prosperity that small kingdom has attained: Look at its network of railroads, opening up every district, however remote; its wonderfully prosperous towns; its restoration of its glorious mediæval buildings; its restored cathedrals; its galleries of modern art in almost every town; the costly and splendid improvements which are being carried out as if regardless of expense in its capital, and the look of wealth and abundance which meets you on every side; and then let any dispassionate observer consider whether this country, like its powerful neighbour France, is not prospering by the prosperity of all classes of its citizens.

LETTER XIV.

DISADVANTAGES OF THE FRENCH SYSTEM OF LAND LAWS.

[*Note by the Editor of the "Manchester Examiner and Times."*—We have a melancholy satisfaction in being able to add the following to the important letters on the Land Question, by the late Mr. Joseph Kay, which have been published in our columns at intervals for some time past.]

I HAVE now endeavoured to present to my readers as fair and dispassionate an account as I was able to give of the effects of the French system of Land Laws, in those European countries in which they have been in force for such a length of time, as to enable a fair judge to form a reliable opinion on such a subject. I have shown how these laws are working in France, Belgium, the Channel Islands, Switzerland, the Rhine provinces of Germany, in Holland, and in Norway; and I have cited the opinions of many able, experienced, and most distinguished men of different countries in support of the statements I have made.

The same system of Land Laws has been put in force in Southern Italy since she shook herself free of foreign and clerical masters. It is too soon to inquire into the effect of these laws in Italy at present, but it requires no great gift of prophecy to predict, that the vast, ill-managed, and badly-cultivated estates of the great nobles of the Roman, Neapolitan, and Sicilian provinces will soon follow the fate of the once similar estates of the French nobles, and be sold and divided among yeomen and peasant farmers, who

will reclaim the wastes and marshes, and bring health, plenty, and comfort where disease, misery, and sterility now prevail.

Even since I wrote the account of the condition of the yeomen and peasant farmers of France, and showed how far removed they were, spite of all the disasters of the late war, from being the "pauper warren" which had been prophesied, remarkable statements have appeared in two of our leading journals, one of which, the "Times," has at all times been a vehement opponent of "free trade in land," or of any system approaching in character to that of France.

The "Times" of the 12th of September, 1878, in a leading article upon the immense and costly works projected and already commenced with wonderful success by M. de Freycinet, the enterprising Minister of Public Works, and warmly supported by M. Léon Say, the cautious financier who now controls the French Exchequer, and by the aged and cautious M. Dufaure, who is the head of the French Ministry, says: "On one subject he (M. Say) spoke with a confidence on which France may be congratulated. The increase of national wealth continues as great as ever. The accumulations of France astonished Europe in 1873. M. Say reckoned the savings of the country available for investment since the beginning of the year at 281,000,000f., and referred with natural pride to the ease with which during the last two months he had raised a loan of over four-and-a-half millions sterling at three per cent. The success of this great operation was the more remarkable as the ordinary machinery for reaching investors was dispensed with. With such resources to look to, he had no apprehensions that the country will be unable to meet the obligations which the development of public works will entail."

It should be remembered, that to defray the expenses of the gigantic works of which M. Say and the "Times" speak, about 500,000,000f. a year will be required for the next ten years.

And the "Spectator" of the 14th of September, 1878, writing on the same subject, says: "So great are the savings of the people that more than £10,000,000 sterling has been deposited in the savings banks in the past seven months. . . . The Government can obtain money more cheaply than at any time in the past 35 years. . . . Whatever the other consequences of the law of equal partition in France, *it certainly has developed the passion of industry to an unprecedented degree. The French peasant, owning his land works and saves as no man works and saves*—certainly not the Englishman, who, though industrious, has not acquired from the possession of property the instinct of thrift."

But I shall be asked: If the French system of Land Laws makes the yeomen and peasant farmers, who cultivate their own land, so prosperous and happy in all these countries into which this system of laws has been introduced, what objection can be reasonably raised against it? This is a reasonable question, which I will try to answer.

1. It must be remembered, from what I have said in No. IX., that if a father has a large family, this law leaves him the power of leaving by will to any one whom he chooses only a very small portion of his land. For example, if he had six children at the time of his death, he could only devise as he chose one-seventh of his estate; if he had eight children, one-ninth; and so on. All the rest of the land is divided by the law among the children equally, if they choose to claim their shares. Of course, in a vast number of cases, they do not so choose. Before the father's death they have generally chosen their mode of life. Some go to the towns, some to the army, some to artisans' work, some to service, and so on. All these know nothing about farming whatever. Moreover, they know that there would not be land enough for all if they chose to divide the estate, and, also, that farm buildings would have to be built, and that farm stock would have to be purchased for each portion; so that, as any reasonable man will perceive, although the law gives each child a share of the land if he chooses

to take it, it continually happens that the circumstances I have just mentioned make them unwilling to divide the farm. And in this case, either the farm is sold in one lot in the market, and the proceeds are divided among the children, or one of the children takes the farm, and gradually pays off the shares of his brothers and sisters. All this is forgotten or misunderstood by English writers on the subject, who are constantly treating the subject as if the farm *must* necessarily be divided, because the law says each child shall be entitled to a certain share. The great estates go on gradually dividing, partly because they consist of many separate farms, each of which can be sold separately; and partly because many of the smaller proprietors are always looking out for the chance of buying small plots of land wherewith to enlarge their small estates.

But, although this is so, still, no doubt, there are many cases in which, spite of all these considerations, the land is actually divided when the whole extent of it is so small as to make division highly inexpedient. And this, no doubt, is a bad effect of this system of laws. How far this evil, where it does exist, is counterbalanced by the vast benefits conferred by this law upon the rural classes, time and experience alone can sufficiently explain.

2. Another evil, which results from this system, is that it often diminishes the authority and influence which a father ought to exercise over his family. In a family in which there are five or six children, all know that the law gives them an equal share of the property on the death of the father, and that in such a case the father would be able to leave as he chose only a seventh of his land. The children know that, no matter how badly they behave or how little respect they show to their father, they are sure of their share when he dies, and that he cannot in any way deprive them of it. The portion of which he can dispose in such a case is too small to be worthy of much consideration. The father is in this way deprived of much of the moral influence which he ought to exercise, and which it is highly expedient

he should exercise, if he is a worthy and moral man. If his family consists of only one or two children, this reason against these laws is deprived of much of its weight. In such cases the law allows him to leave one-half or one-third of the whole land, according as he has one or two children, to any one he pleases, and consequently he is able to affect his child or children seriously by his will, if they prove unworthy.

The English law is still more open to this objection. When an estate is settled and tied up for several lives or many years, the son who is to succeed knows that nothing he does, no disobedience or disrespect he shows, no immorality or debased character he exhibits, can affect his rights as successor. He may show himself to be a spendthrift or a villain; he may treat his father with utter contempt; he may become the companion of swindlers of the worst description; but the estate is sure, if he lives, to become his own. And it is this knowledge and this result of our settlements, deeds, and wills which have utterly destroyed the influence of many a good father, and ruined in morals and character thousands of sons. How far the limited effect of this consideration, so far as the French system is concerned, militates against the vast benefits conferred by that system, only time, education, and experience can explain.

3. Another evil, arising from the French system of compulsory subdivision on the death of the owner, in those countries in which this system is in force, and in which the yeomen and peasant farmers are not educated, is this: A great number of farms come into the possession and ownership of uneducated yeomen and peasant farmers. Where these men are educated, and where many of their sons pass through good agricultural schools, as in Switzerland and Germany, there you find the farmers consulting one another about improvements, upon the qualities of manures and machinery, and upon the best means of making the most of their land. You find there also scientific farming advancing from year to year, and the produce of

the land increasing and improving. But where little or nothing has been done for the real education of these classes, or for their training in scientific farming, although you may find wonderful industry, self-denial, and economy, and the most careful cultivation of the farms, you will also find that they farm, if I may say so, from tradition, from what they have heard from their fathers and neighbours; and you will find an unwillingness or an inability to receive new ideas, or to avail themselves of the improving knowledge of their own time in other countries. Of course this is an evil which education and time will cure, but it is an evil which, where education is wanting, is more observable in countries in which the land is much subdivided, than in those in which the land is cultivated by men of more capital, and with better means of educating and training their children.

4. Another evil which results from this French system is that, as a general rule, it has a tendency to subdivide nearly *all* the great estates. I say a tendency, because in some countries, as in Belgium and France, spite of the stringency of this law, many large estates remain undivided, and in the hands of the same family, from generation to generation: but still the tendency of the French law is as I have said. Now, I must say that, while I think it a vast evil to do as we have done, and to shut out the peasants from all chance of buying land, and the small farmers from almost all chance of buying any, and to have so framed our laws that by far the largest proportion of the land is tied up for generations in the hands of a few great owners, still I think it is also a great evil to do away with large proprietors altogether. If they are good and intelligent men, they perform great and most important functions in the body politic, and are able, by their larger command of capital, to try experiments in scientific agriculture and in costly machinery, and to encourage and promote many new improvements which poorer men would not venture upon until their success had been proved by others. Of course, this is only true where

the great landowner is an educated, scientific man of business, who makes the scientific care of his estate the business of his life. No one grudges such a man the possession of many acres; and such a man, if he knew that he could not, as at present, prevent by any deed or will his estate from being sold after his death, would bestow infinite care on the proper education of the son whom he selected to succeed him, so that the estate might continue to be well and scientifically managed, and might not be sold or divided after his own death. And the son, as I have already pointed out, under such a state of law, knowing that the law did not secure the succession to the estate to him, as it does now, and that his father would not leave him the estate unless he fitted himself to manage it properly after his father's death, would be much more likely to fit himself by study for such management than now, when our law seems to do all it can to render the son, under one of our settlements or wills, wholly independent of the father's influence, and wholly indifferent and indisposed to educate himself for the scientific management of the estate. In these respects I have always been strongly of opinion that the immoral influence and results of our system of Land Laws are about as bad for the common weal as they could be.

And if the only choice before us lay between, on the one hand, continuing the injurious unfairness and the great moral evils resulting from our present system, or, on the other hand, adopting the French system even with its defects, I, for one, should not hesitate a moment in electing the French system, which, although open to the objections I have mentioned, at the same time promotes in such a remarkable degree the self-denial, the foresight, the wonderful industry, and the moral habits of the French yeomen and peasant farmers.

. . . . . .

[The following sentence, extracted from Mr. Kay's book on the "Social Condition and Education of the people," in which he has discussed this subject, contains the result

he arrived at, and forms a fitting conclusion to this unfinished letter. "The best and soundest plan, however, is to give the proprietor power to leave his land to whomsoever he will, but to deprive him at the same time of all power of preventing his successor from selling any portion of the land and of leaving his successors any other than the whole estate in the land devised to them." The reader is also referred to Letter IX., p. 94, and Appendix, p. 311. EDITOR.]

LETTER XV.

THE SYSTEMS OF LAND LAWS IN FORCE IN PRUSSIA, AND IN TWO OR THREE OF THE SMALLER GERMAN STATES.

I HAVE now described to those of your readers who are interested in the subject, and in as simple and popular a manner as I could, the nature of the French system of Land Laws, and their effects in the countries in which they are in force—viz., France, Switzerland, Belgium, Holland, the Channel Islands, the Rhine provinces of Germany and Norway; and in my last letter I have tried to point out, as fairly as I could, all the disadvantages of which I am aware, which tend in any degree to counterbalance the enormous benefits which these laws have conferred upon all the countries, into which they have been introduced.

I now propose to explain, as clearly as may be, the systems of Land Laws which are in force in the great kingdom of Prussia, and in two or three of the smaller German States. Your readers will soon see how they promote in the fullest manner free trade in land; how they set themselves against the tying up of estates, as in Great Britain and Ireland, for long series of years; and how they facilitate, as much as possible, the acquisition of land, either for gardens, orchards, or farms, by all classes of the people.

The state of the division of the land in Great Britain, as described in No. I. of this series of letters, may well indeed appear astounding to an educated German, when he com-

pares it with what the greatest of their statesmen have successfully devoted their energies and abilities to effect in Prussia and Germany, and when he considers that the division of land in his own country meets with the almost universal assent and praise of all thoughtful and intelligent men. But first of all, before we inquire into the nature of their Land Laws, let us consider what the actual state of the division of the land in the kingdom of Prussia was in 1858, the last year, I regret to say, of which I have been able to procure any official and trustworthy returns.

I am indebted for these returns to Mr. Harris-Gastrell's very learned report on Prussia and the North German Confederation, published in Part I. of the "Reports of Her Majesty's Representatives respecting the Tenure of Land in the several Countries of Europe, 1869." Mr. Harris-Gastrell divides the landed estates of Prussia into three classes—

1. Small properties.
2. Middle properties.
3. Large properties.

As to the small properties, he says, that in 1858 there were in the whole kingdom—estates under $3\frac{1}{2}$ acres, 1,087,081, estates between $3\frac{1}{2}$ to 20 acres, 609,828. Sites of houses with or without a house-garden attached are excluded from the above numbers.

As to the middle properties, he says, that in 1858 there were in the whole kingdom—estates from 20 to 200 acres, 389,823,—estates from 200 to 400 acres, 15,048.

As to the large properties, he says, that in 1858 there were in the whole kingdom—estates over 400 acres, 18,197, and that of these, in 1865, there were only 108, which were assessed to the Land Tax at a net return of over £1500, or, stating in a summary the total of the above table, there were in 1858, as he says—

Small properties	1,696,909
Middle properties	404,871
Large properties	18,197

Of the small proprietors, he says that a considerable number

possess sufficient land to support themselves and their families. The minimum for this purpose, he says, is 7 acres, or thereabouts, in very fertile and well-favoured districts; but that the minimum increases to 20 acres or more in districts with decreasing local advantages. The remaining small proprietors are mainly persons, as he observes, "who are auxiliarly occupied with agriculture;" that is, either labourers, who own a kitchen-garden or a field; or market gardeners, who raise vegetables and fruit for the markets; or owners of vineyards. It appears that there are, or rather were, in 1858, about 800,000 day labourers, working for wages, who *owned* small plots of land such as I have mentioned above, and that many of these were artisans or the small industrial people of the village.

Only compare this state of things to that described in No. I., and the sizes of what are called "great" estates, with the sizes of the enormous estates of England, Scotland, and poor Ireland, and try to realise the vast difference between the position of a small farmer or a peasant in ourIslands and in Prussia. Remember, that, as I have shown in my first letter, 874 persons in England and Wales own 9,267,031 acres; and that 4500 men in England and Wales own more than 17,498,200 acres; that in Scotland one owner has 1,326,000 acres, and that 12 owners have 4,339,722 acres; while in poor, discontented Ireland, 744 persons hold 9,612,728 acres, or about one-half of the island, and that of these a great number are absentees. And then consider the significance of the fact that, in the great kingdom of Prussia, there are only 108 landowners whose estates are large enough to be rated at £1500 a year.

. . . . . .

[NOTE BY THE EDITOR.—Mr. Kay was engaged in writing the above letter on the 5th of October 1878. In the evening he made, as usual, a short entry in his diary:—"Worked at No. XV." These are the last words my husband ever wrote in this diary which he had kept regularly for the greater part of his life. The next day, Sunday the 6th, he was seized with a sudden increase of the painful illness from which he had been suffering during many months, and died on Wednesday the 9th of October 1878.]

A REVIEW

OF

Recent Changes in the Land Laws of England.

BY THE RIGHT HON. G. OSBORNE MORGAN, Q.C., M.P.

I HAVE been requested to write a short sketch of the legislative changes bearing on the subject of this work which have taken place since it was written. In one sense, indeed, much has happened during that time which seems destined ultimately to exercise an important influence on our territorial system. The extension of the Household Franchise to the agricultural districts, for instance, to say nothing of other measures, can hardly fail sooner or later to impress its mark upon the land laws of England. But it is only with the actual amendments in our real property law that I propose to deal, and in particular to inquire what has recently been done to remove the causes which, in Mr. Kay's own words, "keep the land tied up in great estates, and prevent it from coming into the market as much as it otherwise would do."

Obstacles to free dealing with English land.

Before answering this question, it may be useful to point out that the two things which in this country are chiefly needed to promote what I may call the free circulation of land, are simplicity combined with security of title and facility of transfer. Under the former head may be classed the removal of impediments and complications arising from the practice of tying up land during successive generations and for the benefit of successive owners; from the creation of co-existent or conflicting rights or interests in the same property; from the difficulties often artificially or unnecessarily aggravated of identifying the thing dealt with. Under the second, the substitution of some cheap and simple mode of transfer for the costly and cumbrous formalities by which the conveyance of land was and to a cer-

tain extent still is accompanied. But although it may be convenient to distinguish between these two requisites, they are in reality closely connected, for it is obvious that if every acre of land in England could (as in some countries) be vested in some ascertained person capable of dealing with it for all intents and purposes as his own, the transfer of land would become as easy and simple as that of any other kind of property.

Lord Cairns.

During the present Parliament a serious effort has been made to grapple with both these problems. The merit of taking the initiative in each case belongs to the late Earl Cairns. Perhaps it would have been difficult to have found a man in many respects better qualified for the work. His knowledge of English real property law was probably as extensive and profound as that of any lawyer of the day, while his peculiarly keen and lucid intellect, and his long and varied experience as a legislator and a statesman, lifted him far above the narrow region of professional prejudice. To say that his action was cramped and fettered by considerations dictated by a not unnatural regard for the party of which he was a leader and for the order of which he was an ornament, is only to say that he was influenced by ideas and associations from which a Conservative Lord Chancellor could hardly free himself.

His Settled Land Act.

By far the most important of the land-law reforms introduced by Lord Cairns was the Settled Land Act—a measure which was passed in the year 1882 after being submitted to and carefully revised by a Select Committee of the House of Commons, composed of the leading lawyers, landowners, and men of business in that House. Besides giving to "limited owners" very extensive powers of leasing and other powers connected with and subsidiary to the management and improvement of their estates, it enables a tenant for life * of settled land to sell, partition, or exchange for other land any settled land, † subject to the following amongst other conditions:—

Its provisions.

* For a definition of "tenant for life," see sects. 2 and 58, and as to the meaning of "land," sect. 2 (10. 1) of Act.

† "The principal mansion-house on any settled land, and the demesnes thereof and other lands usually held therewith," can only be sold with the consent of the trustees, or by order of "the court" (s. 15).

(*a*) The sale, exchange, &c., must be made for the best price or other consideration that can be reasonably obtained (sect. 4, sub.-sect. 1 and 2).

(*b*) The tenant for life must give one month's notice of his intention to sell, &c., by registered letter to each of the trustees of the settlement, and to their solicitors if known to him (sect. 45). Provision is made by the Act for the appointment of trustees where none exist (sect. 38).

(*c*) The "capital moneys," *i.e.*, the moneys realised on the sale, exchange, &c., must be paid either to the trustees or into Court* as the tenant for life may prefer (sect. 22. 1).

(*d*) Such "capital moneys," if paid to the trustees, must, according to the direction of the tenant for life, and in default thereof, at the discretion of the trustees, or, if paid into Court, on the application of the tenant for life or trustees (sect. 22, sub.-sect. 2. 3), be invested or applied as follows:

In investment on Government securities or other securities, on which the trustees are by the settlement or by law† authorised to invest the trust money of the settlement, or on the bonds, mortgages, or debentures or debenture stock of any railway company in the United Kingdom incorporated by special Act of Parliament, and having, for ten years preceding the investment, paid a dividend on its ordinary stock or shares.

In discharge or redemption of incumbrances *affecting the inheritance of the settled land*, or of land tax, tithe rent charge, or similar charges affecting the settled land.

* "The Court" means the Chancery Division of the High Court of Justice, sect. 2 (10. ix.), sect. 46 (1), and in the County Palatine of Lancaster the Chancery Court of that county, sect. 46 (8); but in the case of property below a certain capital or annual value, jurisdiction is given to the County Court of the district (sect. 46 (10).

† *i.e.*, Bank stock, East India stock, Metropolitan Board of Works stock, and real securities in England, Wales, or Ireland, unless such investments be expressly forbidden by the settlement (see Lewin on Trustees, 7th ed., ch. xiv. sect. 4).

In payment of any improvement authorised by the Act.

In the purchase of other interests in the settled land, or in the purchase of other lands or interests in land within certain limitations prescribed by the Act.

In payment to any person becoming absolutely entitled.

In payment of costs.

In any other mode in which money produced by the exercise of a power of sale in the settlement is applicable thereunder (sect. 21).

The Act proceeds to enact that the "capital monies" and the securities in which they may be invested shall go to the same persons and in the same manner as the settled land would have gone, if unsold, &c., and that the income of such securities shall be paid or applied as the rent of the land would have been payable or applicable (sect. 22). If the "capital monies" are reinvested in land, such land is to be settled as nearly as possible in the same way as the land originally settled.

Special provision is made by the Act for the settlement by the Court of differences between the tenant for life and trustees (sect. 44), and for the exercise of the powers created thereby in the case of persons under legal disability (sect. 59–62), and all limitations and restraints upon the exercise of those powers are declared to be void (sect. 51).

The Act with certain modifications is extended to Ireland (sect. 65).

The Settled Land Act, 1882, was amended in several unimportant respects by an Act passed in 1884.

Its effect and operation.

It will be seen that the practical effect of this Act is to introduce into every settlement of landed property what in a somewhat different shape every well-drawn settlement already contained—a power of sale exerciseable by the tenant for life over the settled land, with such securities for the investment and application of the sale monies as the interests of the other persons entitled under the settlement require. It would be unjust to underrate the importance of such a measure, which is regarded by many lawyers as

reaching the extreme limit to which the reform of our land laws can in this direction be carried. I have, however, found it exceedingly difficult to obtain anything like a trustworthy statement of the amount of land which has actually been sold under the Act. The truth seems to be that while the provisions enabling limited owners to raise money for the improvement of their property have been very largely put in force,* the amount of land brought into the market under its operation, though considerable, has not been nearly as large as might reasonably have been expected. To a certain extent this may be attributed to the depressed state of the land market and the indisposition of the public to buy. But I am bound to say that I have heard much dissatisfaction expressed at the smallness of the benefits conferred by the Act, especially by those who have tried it. They complain that it has not made the sale of land one whit less costly or its conveyance one whit less dilatory, and that as regards his actual control over or enjoyment of the purchase money, it leaves the tenant for life very much where he was before.† Let us see what foundation (if any) there is for these complaints.

Its defects.

In the first place, we must bear in mind that the Act only enables the would-be seller to defeat or displace the interests created by the settlement. It does not, like the Irish Encumbered Estates Act, provide a summary process by which a purchaser can acquire a good title against the whole world. In other words, a sale or other transaction under the Settled Land Act can only be made subject to the limitations which precede or override the settlement. If therefore the land, before it was brought into settlement, has been encumbered or otherwise dealt with in such a way as to make the title unmarketable, the title will remain for all intents and purposes as unmarketable as before.

In the next place it will be seen that the Act, while it

* I have ascertained from Sir James Caird that since the 1st of January 1883, when the Act came into operation, no less than 183 applications under the "improvement clauses" of the Act, representing a sum of from £160,000 to £180,000, have passed through the Land Office.

† The powers of reinvestment given by the Act are certainly more extensive than those usually inserted in settlements.

enlarges the power of alienation possessed by "limited owners," makes no change in the law of settlement itself. A testator is still at liberty to tie up his landed property for the successive periods to which Mr. Kay so strongly objected, with this important qualification, that he cannot prevent its being turned into money as soon as he is dead. But the moment this process is effected, the limitations which he has attached to the land will fasten upon the money into which it is turned, and upon the securities on which that money is required to be invested. In other words, the successive owners of the estate will, in case of a sale, remain for all practical purposes exactly where they were, except that instead of being successively interested in the land, they will become similarly interested in the fruits which its sale has produced. The family property, instead of being locked up in land, will be locked up in consols or railway debentures. The eldest son will be an eldest son still; the younger children will remain younger children; and the "parental control," of which so much has been said, will be as far from attainment as ever. Nor is there anything to prevent the purchase money from being at once reinvested in land to be held under the same conditions and for the benefit of the same persons.

Now it is pretty certain that in the absence of some strong inducement, such as the prospect of an increased income or of a profitable employment of the purchase money, or of relief from some pressing necessity, most Englishmen of the class from whom landowners are generally drawn, will hesitate to part with that kind of property which in this country combines undoubted social advantages with the prospect of an ultimate rise in value. Unfortunately, too, during the last two or three years, the demand for agricultural land has been so limited, and the rate of interest yielded by "authorised securities" at their present high prices has been so low, that few limited owners have felt tempted to incur the certain costs of a speculative and possibly abortive sale, in order to exchange their broad acres for "the elegant simplicity of the three per cents." No doubt there are cases where a tenant for life, crippled by

charges affecting the inheritance, which, coupled with a reduction in his rents, all but exhaust his income, may, if he is lucky enough to find a purchaser, obtain relief under the Act. But even then two things must be borne in mind: first, that, as I have already pointed out, the Act only enables a vendor to make a title subject to all prior or paramount charges or interests; and secondly, that even as regards estates created by the settlement a very important qualification is introduced by the fiftieth section of the Act. For by that section the powers of sale, &c. given to a tenant for life are made incapable of release or assignment, either by direct act or by operation of law, and notwithstanding any such assignment remain exerciseable by the tenant for life, except that they cannot be exercised in such a way as to defeat or prejudice the rights of an assignee for value without his consent. The practical effect of this restriction is that, if the tenant for life sells his interest or becomes bankrupt, the operation of the Act will virtually be suspended. For while the tenant for life will have lost his estate, his assignee or trustee in bankruptcy will have acquired no power. Thus in the very case cited by Mr. Kay—that of the insolvent nobleman who sold his estate for life to an Israelitish speculator, the property would remain as unsaleable as it was before the Act, the former having a power of sale without a shred of interest, and the latter an interest without a power of sale. It may be a question whether an effort should not be made to amend a clause which makes one man a vendor without right to enjoy, and another an owner without power to alienate.

The Conveyancing Act, 1881.

Lord Cairns carried through Parliament two other Acts, to which it is proper that I should allude—the Conveyancing Act, 1881 (amended by the Conveyancing Act, 1882), and the Solicitors Remuneration Act, 1881. The former Act, as its title implies, deals more immediately with the actual transfer of land. Its provisions are too voluminous and technical to be enumerated here. It may be briefly stated, that besides supplying short statutory forms of mortgages and other deeds, intended to supersede the lengthy instruments heretofore in use, its author sought by,

clothing legal instruments with a certain validity and by attributing to legal phrases a certain force, to check that inordinate prolixity which extreme timidity or long habit had made a second nature to the English conveyancer. A similar attempt had been made more than twenty years before by Lord Cranworth, but it cannot be said to have been successful.

The Solicitors Remuneration Act was passed about the same time. To understand its purport and effect it is necessary to remember that in England the right of solicitors to claim payment for the perusal and preparation of legal documents is made dependent on the length of the document itself A more vicious system of remuneration can scarcely be conceived. It actually puts a premium on verbiage, and is no doubt responsible for much of the rubbish by which English mortgages, marriage settlements, and other deeds are still disfigured. The Act authorised the framing of rules for revising and prescribing the remuneration of solicitors in matters of conveyancing; and under the powers thus given and in accordance with a recommendation of the Select Committee of the House of Commons on land title and transfer (1878–9), regulations were issued sanctioning the adoption of a graduated *ad valorem* scale of payment in lieu of the old scale of conveyancing charges.

The Solicitors Remuneration Act.

It was hoped, no doubt, that these two measures, by obviating the need and removing the motive for the introduction into legal instruments of cumbrous recitals, covenants, and provisions, would simplify and cheapen the transfer of land. To a certain extent they may have done so; but the remedy has fallen far short of the mark. On the one hand, the adoption of the new scale of costs has been made optional, and the scale itself is said to be much too high. On the other the superstitious reverence which English lawyers still retain for old forms and precedents, even when the necessity for using them (if it ever existed) has ceased, has done much to counteract the good results which were expected from the Acts. Be the cause what it may, the process of transferring land from

Inadequacy of these measures.

hand to hand in England still remains costly and tedious, and contrasts strangely with the picture drawn by Sir Robert Torrens of the working of the South Australian system, under which the most important transactions in land may be completed in a few minutes and at the cost of a few shillings.

The Torrens system.

I have been often asked why the "Torrens' system" of land registration, which has succeeded so well in Australia, should not be adopted bodily in England. But the advocates of that system are apt to forget that an attempt has already been made to transplant it into English soil. By

Land Transfer Act, 1875.

he Land Transfer Act, 1875, a carefully prepared and theoretically perfect system of registration of titles was constructed which has now been in operation for nearly ten years. Yet this system, if not actually stillborn, has long since died a natural death, and at present exists only for the benefit of the fortunate officials who are supposed to administer it.*

Causes of its failure.

Various causes have been assigned for the total failure of this Act. That failure has been ascribed to the disinclination of solicitors to advise their clients to adopt it; to the natural distaste of the public and the legal profession for a change involving so great a departure from established usage; and, lastly, to the purely permissive character of its provisions. But except in the direction of making it compulsory, I am not aware that any practical suggestion has ever been made for amending or extending the Act in such a way as to make it more popular or more generally adopted.

There may be some force in all these reasons, though it is difficult to believe that among the many thousands who have bought land since the 1st of January 1876, there should not have been some persons possessed of sufficient sense and independence to try the Act for themselves; while the second explanation of its failure is hardly borne out by the fact that the applications to the Land Registry,

* From the last return, published in July 1884, it appears that between the 30th June 1883 and the 31st December 1883 only two properties were put on the registry "on first registration."

instead of becoming more numerous as it was better known, have year by year steadily decreased. Of course, if the Act could be made compulsory, its success would in a certain sense be assured, but it would obviously be difficult in a country like this to force upon every landowner a mode of dealing with his property which not one in 50,000 has adopted of his own accord. Nor ought we to forget that, before compelling persons to register their titles,* we are bound to give them titles that can be registered ;† and most persons will admit that there is some justice in the conclusion at which the Select Committee, to which I have already referred, arrived, that "to legislate for the registration of titles without, as a preliminary step, simplifying the titles to be registered, is to begin at the wrong end." ‡ The truth seems to be, as I stated at the outset, that the two things hang together, and that every measure which, like the Settled Land Act, or the Real Property Limitation Act, 1874,§ tends to break down the legal *chevaux de frise* with which the jealousy of our ancestors has surrounded the titles to English land, helps also to facilitate and simplify the sale and transfer of real estate, and to render land registration more feasible, and, perhaps, less necessary. ‖

Recapitulation.

* It has often been suggested that a beginning might be made by indirectly compelling every mortgagee or purchaser of land to register what is called a "possessory" title, under pain of being postponed to a subsequent mortgagee, &c., who took that precaution. It is argued that such titles, though at first comparatively valueless, would, in course of time, ripen into good or "indefeasible" titles. See some observations on this proposal in Report of Select Committee of House of Commons on Land Titles and Transfer, 1878–79.

† It is said by some persons that as every limited owner has now a power of sale under the Settled Land Act, there ought to be no difficulty in finding some person who might be registered as entitled to every acre of land in the country. I fear those who argue thus, either greatly overstate the operation of the Act or greatly minimise the difficulties still to be encountered in carrying it out.

‡ Report of Select Committee, p. vi.

§ By this Act, which was passed in 1874, but did not come into operation till January 1, 1879, the period within which an action to recover land may be brought was reduced from twenty to twelve years. In the case of personal estate, the period of limitation is much shorter.

‖ The completion of the Ordnance Survey will no doubt, by facilitating the identification of land, remove one of the obstacles to the successful working of a Land Registry.

On the other hand, it is equally certain that as long as English land continues to be treated not as an article of commerce but as a species of heirloom, to be nursed and kept together for the benefit of a few families, any attempt to promote "free trade in land" is predestined to fail. Meanwhile the mere introduction of a simple system of land transfer such as that which has been so popular in the Australian colonies into a country where the devolution and tenure of land is still regulated by laws and customs which have their roots in the feudal system, is not unlike an ttempt to cure a patient suffering from a chronic complication of organic disorders by merely putting him on a plain diet.

Ground Game and Agricultural Holdings Act.

The only other measures to which I need refer are the Ground Game Act, 1880, and the Agricultural Holdings Act, 1883, both passed by the present Government. The former gave to the occupier of land the inalienable right to kill ground game on his land; the latter secured to the tenant the right to compensation for improvements, and substantially altered in his favour the laws of fixtures and distress.

Conclusion.

It will be seen from the foregoing outline, that although something has been done to mitigate the more pronounced evils against which this work has been directed, we are still far from such a change in our land laws as would "give to every present generation an absolute control over the soil, free from the paralysing influences which afflict it now from the ignorance, the folly, the obstinacy, or the pride of the generations which have passed away." *

G. O. M.

May, 1885.

* Preface by the Right Hon. John Bright, M.P.. p. iii.

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